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**EIGHTH ANNUAL REPORT**

**OF THE**

**Board of Railroad Commissioners**

**OF THE**

**STATE OF NEW YORK,**

**For the Fiscal Year Ending June 30, 1890.**

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**TRANSMITTED TO THE LEGISLATURE JANUARY 13, 1891.**

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**COMMISSIONERS:**

**WILLIAM E. ROGERS, | ISAAC V. BAKER, JR.,  
MICHAEL RICKARD.**

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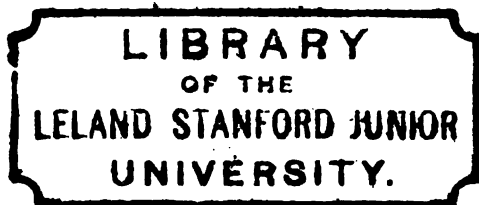
**VOLUME I.**

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**ALBANY:**

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**1891.**



A. 464



# STATE OF NEW YORK.

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No. 28.

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## IN ASSEMBLY,

JANUARY 13, 1891.

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### EIGHTH ANNUAL REPORT

OF THE

BOARD OF RAILROAD COMMISSIONERS ON THE  
RAILROADS OF THE STATE.

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OFFICE OF THE  
BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, *January 12, 1891.*

*To the Speaker of the Assembly:*

The Board of Railroad Commissioners, agreeably to the provisions of chapter 353, Laws of 1882, transmits herewith to the Legislature its Eighth Annual Report, for the year ending June 30, 1890.

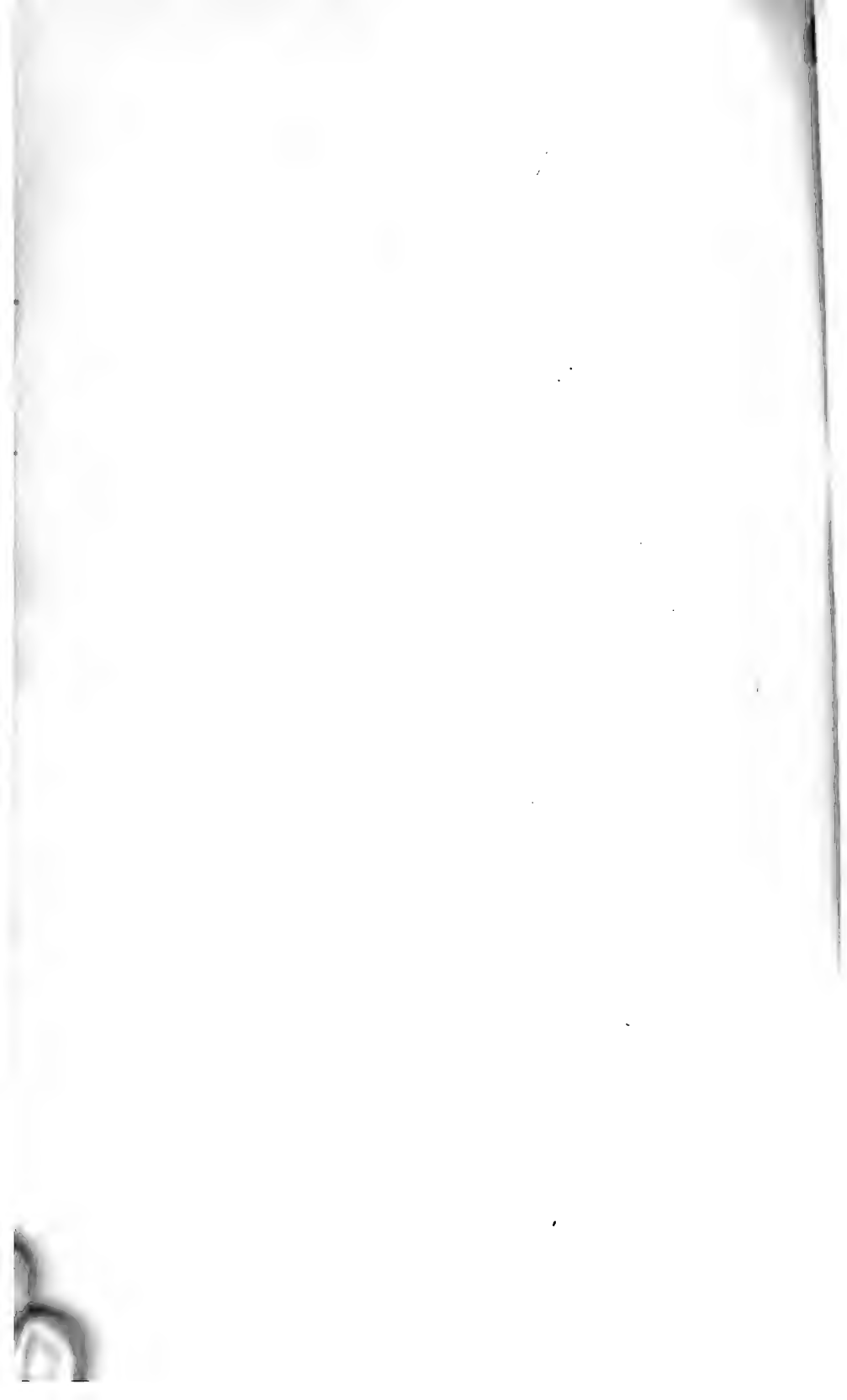
WILLIAM C. HUDSON,

*Secretary.*



# TABLE OF CONTENTS.

	PAGE.
Report of Commissioners.....	vii-xxi
Decisions and recommendations:	
Executive and legislative references.....	3-49
Complaints of cities, towns, etc.....	50-104
Applications for change of motive power .....	105-126
Applications for increase of capital stock .....	127-139
Applications for issue of bonds .....	140, 141
Applications to suspend operations of road.....	142-150
Various applications by railroad companies .....	151, 152
Accidents .....	153-181
Accident inquiries .....	182-193
Length of railroads.....	194-197
Inspections .....	198-253
Minutes of Board.....	254-279
Companies formed during 1890. ....	280
Company reorganized during 1890 .....	281
Leased roads, 1890 .....	281
Companies consolidated during 1890 .....	282
Extension of routes during 1890.....	282
Surrender of capital stock, 1890.....	283
Extension of corporate existence .....	284
Enactments of year 1890.....	285, 286
Alphabetical list of all companies formed under laws of this State, .....	287-297
Condemnation Act.....	323-330
General Railroad Act, and all acts (classified) relating to the rail- roads of this State.....	331-497
state Commerce Act.....	498-509



# REPORT.

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## STATE OF NEW YORK:

OFFICE OF THE BOARD OF RAILROAD COMMISSIONERS, }  
ALBANY, *January 12, 1891.* }

*To the Honorable the Legislature of the State of New York:*

Chapter 353 of the Laws of 1882 requires the Board of Railroad Commissioners to report to the Legislature on or before the second Monday in January in each year. In conformity with this statute the Board submits its Eighth Annual Report.

### GENERAL SITUATION.

The general situation of railroad business throughout the country for the year last past has been a further development of the conditions outlined in the last Annual Report of this Board. The railroad corporations have endeavored to maintain rates of transportation at profitable or at least living figures, by continuing the various associations heretofore described, such as the Interstate Commerce Railway Association, the Central Traffic Association, Trunk Line Agreement, Southern Railway and Steamship Association, etc.

These associations consist of groups of railroads in different sections of the country. Each is managed by a committee in which is represented each railroad in the group. Rates for freight and passengers, differentials to the weaker roads and other matters of general interest are determined by the committee and are supposed to be adhered to by the members of the association. In many cases they are not, however, and more or less friction and rate "cutting" constantly ensue. Rumors are of a new and more vigorous agreement about to take place,



superseding the Interstate Commerce Association and comprising a still greater number of western and southwestern roads.

The trunk line agreement in which this State and immediate adjacent territory are more particularly interested, has been fairly well preserved through the year with a corresponding stable maintenance of freight and passenger rates at fairly profitable figures.

The tendency to consolidation alluded to in the last Annual Report has steadily gone on. About 100,000 miles of railroad, or about two-thirds of the entire mileage of the country, appear to be now controlled by but fourteen separate interests and corporations.

Numerous cases of great importance have come within the province of the Interstate Commerce Commission and been decided by that body. A synopsis of them will not be undertaken here further than to call attention to perhaps the most important, viz., the decision of that body in the matter of alleged excessive freight rates and charges on food products.

This decision was rendered in response to a resolution of the Senate of the United States, passed on the 19th of February, 1890, calling upon the Interstate Commerce Commission to investigate the question as to whether the rates of freight were reasonable between "the great section of the country lying between the Rocky Mountains and the principal food distributing centers of the east."

An elaborate investigation was undertaken and decision rendered. The Commission found that transportation charges now made on corn and oats between the Mississippi river and eastern cities, based on twenty cents per hundred pounds from Chicago and twenty-three from East St. Louis to New York city, are less than four and four-tenths mills per ton per mile and are not excessive:

That any transportation charges between the Mississippi river and New York city on wheat and flour, based on a higher rate than twenty-three cents per hundred pounds from Chicago New York city, are unreasonable, and that any rate on wheat and flour carried from any one place to another, which is more than fifteen per cent above the rate on corn and oats between the same places, is unreasonable.

The Commission found, however, that the rates charged by railroads generally west of the Mississippi to Chicago and Mississippi points were excessive, and recommended a reduction in the main so that rates from the interior through to St. Louis, the Mississippi and to Chicago should be practically not greater than six and one-half mills per ton per mile on corn and oats.

This decision has met with extreme disfavor by many of the railroads running through the comparatively thinly populated districts west of the Mississippi and Missouri rivers. It is currently reported that the question will be taken before the United States courts, and the authority of the Commission to establish rates disputed, upon the general ground that that article of the Constitution of the United States conferring upon Congress the power to regulate commerce among the several States, was not intended to convey the right to impose specific rates of freight upon corporations chartered by the several States.

In September, 1888, the House of Representatives passed a resolution requiring the Interstate Commerce Commission to prescribe one uniform classification of freight for all railroads of the United States engaged in interstate commerce.

Though the resolution failed to pass the Senate, the introduction into Congress of such a subject led the railroads, under the urging of the Interstate Commerce Commission, to take steps toward that end for themselves.

Accordingly, in December, 1888, a convention of railroad managers met in Chicago and appointed a standing committee composed of two members from each of the traffic associations which should endeavor to combine existing freight classifications into one. The committee made its report in June, 1890, accompanied by the compilation of a uniform classification.

This classification has been printed and submitted to the traffic associations with a letter of recommendation that it be made effective January 1, 1891.

is a most important matter, and if the classification as recommended shall be found satisfactory and practicable of execution throughout the country, it will vastly simplify the mills of rates for freight transportation.

## SUMMARY OF BUSINESS FOR THE YEAR.

In response to a petition from numerous railroads of the State, the Board recommended to the Legislature of last year a change of the fiscal year for the annual reports of railroads, so as to end on June 30th instead of September 30th, and transmitted a draft of a bill to carry the recommendation into effect. The bill was enacted into law, becoming chapter 98 of the Laws of 1890.

The object of the recommendation was to make the fiscal year of the State of New York correspond with the fiscal year adopted by the Interstate Commerce Commission, inasmuch as that Commission requires annual reports from all the steam railroads in the State engaged in any interstate commerce transactions, which practically comprises all the steam railroads of the State.

The railroads were substantially unanimous in favor of the change, inasmuch as they are thus compelled to make but one annual report instead of two.

It may be stated that this Board is informed by the Interstate Commerce Commission that a large majority of the States of the Union have adopted June 30th as the end of the fiscal year.

In order to make comparisons with future years and also to compare a year's business with previous years, the Board required the railroad companies to include three months of 1889 in the reports for 1890, although those three months' business had been included in the reports for 1889. In making comparison, therefore, with the previous year's business it is to be borne in mind that the same three months' business is included in each year's figures.

The change in the date of the fiscal year also enables the Board to submit both volumes of this Report in printed form to the Legislature on the second Monday of January, instead of submitting the second volume, as heretofore, in manuscript form.

It appears that a considerable increase in business on the railroads of the State as compared with previous years' business was done last year. The totals for all roads and the details each are given with great particularity in the second volume of this Report. A few of the grand totals and most important results are given here as usual.

	For year ending Sept. 30, 1889.	For year ending June 30, 1890.
Gross earnings from operation of road	\$163,637,208 19	\$163,974,833 87
Operating expenses	101,779,493 88	107,950,410 80
Net earnings from operation of road	61,857,714 31	56,015,423 07
Income from other sources than operation of road	4,985,649 45	5,172,928 60
* Interest paid and accrued	26,739,739 43	27,520,491 31
Taxes	6,269,481 86	6,498,092 67
Miscellaneous	1,514,979 13	1,737,484 78
* Dividends declared	14,817,364 99	15,250,052 76
Surplus	4,544,860 28	4,382,244 42
Stock and debt	1,275,963,953 58	1,288,688,907 55
Cost of road and equipment	1,314,531,088 83	1,225,335,120 65
Percentage of gross income to cost of road and equip- ment	04.67	05.00
Percentage of net income to capital stock	03.16	03.54
Percentage of dividends declared to capital stock	02.34	02.41
Miles of road in New York State, main line	17,406 59	7,590 07
Tons of freight carried one mile	12,888,675,746	14,313,403,033
Increase for year ending June 30, 1890, 11.05 per cent.		
Average freight earnings per ton per mile (cents)	0.782	0.770
Average freight expenses per ton per mile (cents)	0.524	0.510
Average freight profit per ton per mile (cents)	0.258	0.260
Passengers carried one mile (exclusive of elevated roads)	2,391,916,204	2,355,499,033
Increase for year ending June 30, 1890, 02.33 per cent.		
Average earnings per passenger per mile (cents)	2.29	2.28
Average expenses per passenger per mile (cents)	1.43	1.45
Average profit per passenger per mile (cents)	0.80	0.80

\*Includes respectively interest and dividends paid by lessors from rentals received from lessees as follows:

	Year ending Sept. 30, 1889.	Year ending June 30, 1890.
Interest	\$7,417,398 15	\$7,880,297 87
Dividends	3,567,545 00	3,597,892 90

†Sixty-nine and eighty-five one hundredths miles of Lackawanna and Pittsburg not operated during year, are not included in total for 1889, but are embraced in figures for year ending June 30, 1890.

### REFERENCES AND COMPLAINTS.

During the past year the Board has considered and disposed of twenty-three references by the Governor, the Legislature and committees thereof, and numerous complaints preferred by cities, towns, associations and individuals.

The determinations in these matters are to be found in the Appendix, page 3 to 104, inclusive, to which reference is made for a full exposition thereof.

### ACCIDENTS.

The record of accidents for the year ending September 30, 1890, shows 695 killed and 1,434 injured, as compared with 589 killed and 1,105 injured the previous year.

The following table gives the record of the accidents, classified, first, as to their causes, and second, as to whether beyond the control of the killed or injured or in consequence of their own conduct or want of caution, for the years ending September 30, 1889 and 1890.





An investigation of the preceding table shows that 6 passengers were killed and 67 injured from causes beyond their own control, as compared with 7 killed and 76 injured in 1889.

The 6 killed were in the following accidents: 5 at Bay View, on March 6, 1890, in a collision on the Lake Shore and Michigan Southern railroad, caused by a train parting, and 1 in a collision at Owego, on the New York, Lake Erie and Western railroad, on January 30, 1890.

Of the 67 injured, 21 received their injuries at the Bay View collision, 3 at the Owego collision, 4 in a derailment at Painted Post, March 6, 1890, on the New York, Lake Erie and Western railroad, 5 in a collision at Cooper's gravel pit, on June 9, 1890, on the New York, Lake Erie and Western railroad, and 9 in a collision at Long Island City on the Long Island railroad, on June 3, 1890. The remainder were injured in less serious accidents.

The facts and circumstances attending these accidents were investigated by the Board. The reports will be found under the head of "Accidents," on page 153 *et seq.* of the Appendix.

Twenty-seven employees were killed and 71 injured from causes beyond their own control, as compared with 16 killed and 77 injured in 1889.

An inspection of the table shows that the causes of death and injury bear about the same relation to each other as in previous years.

The most serious cause of death to employees was walking or being on the track, resulting in 94 deaths and 105 injuries, as compared with 69 deaths and 64 injuries in 1889.

Fifty-two employees were killed and 97 injured through falling from trains, engines or cars, as compared with 41 killed and 64 injured the previous year.

Twenty-five employees were killed and 497 injured from coupling cars, as compared with 27 killed and 364 injured in 1889.

These figures show that the statutes with regard to automatic couplers have so far had little or no effect in diminishing the

death and injury of employees. The Board need not repeat again what it has so often said upon this subject, but refers to the last Annual Report at page xv of the first volume thereof.

Chapter 524 of the Laws of 1889 provides that "All persons and corporations operating any line or lines of railway by steam power in this State, shall, after the 1st day of November, 1892, equip all of its own engines and freight cars run and used in freight trains or other trains in this State with such automatic self-couplers."

[A circular was issued last year calling upon the railroads of the State to report how many freight cars were owned and in use by each company and how many such cars were equipped with automatic couplers. The answers show that the total number of freight cars was 180,873, of which 35,423, or about nineteen per cent, were equipped with some form of automatic coupler.

The couplers were of many different patterns, however, a large number of them not coupling automatically with any other than their own kind.

The act hereinbefore quoted does not prohibit freight cars belonging to foreign corporations being run within the State, and consequently will do little to remedy the evil.

It would seem as if the only solution of the matter would be an arbitrary determination of some form of coupler by the Federal authorities and its compulsory adoption by all railroads engaged in interstate commerce.

The most serious cause of death to "others," not employees or passengers, was, as heretofore, walking or being on the track. This resulted in 313 deaths and 149 injuries, as compared with 284 deaths and 118 injuries in 1889.

At highway crossings protected with gates or flagmen, 10 were killed and 24 injured, as compared with 16 killed and 16 injured in 1889.

At such crossings not protected with gates or flagmen, 50 were killed and 28 injured, as compared with 29 killed and injured in 1889.

The Board refers to its previous expressions and recommendations upon this subject, particularly those contained in last Annual Report at page xviii of the first volume thereof.

The necessity of a law providing for the following purposes is every year more clearly demonstrated, viz: *First.* Prohibiting railroads hereafter constructed from crossing intersecting highways at grade, except with the permission of the court. *Second.* Providing that existing grade crossings shall be separated; provision being made for the equitable apportionment of the expense between the railroads and communities benefited. *Third.* Prohibiting highway commissioners laying out new highways over railroads at grade, except with the permission of the court.

Your attention is particularly called to the investigations of these accidents, and accident inquiries, to be found on page 153 *et seq.* of the Appendix.

#### CHANGE OF MOTIVE POWER FOR STREET RAILROADS.

Numerous applications again this year, as last, have been presented to the Board for its approval of a change of motive power under the provisions of chapter 531 of the Laws of 1889, amending section twelve of the General Street Railroad Act by substituting the Board of Railroad Commissioners for the local authorities of cities or villages, as the public authority to give consent for change of motive power by street railroads.

The constitutionality of the act was tested by the authorities of the city of New York. Its validity was sustained, however, by the Court of Appeals in the matter of the petition of the Third Avenue Railroad Company of New York for a writ of mandamus to compel the Commissioner of Public Works of New York city to allow that company to open the streets for the purpose of putting down a cable (121 N. Y., p. 536).

The decisions in each application are given in full in the Appendix, page 105 *et seq.*

Your attention is particularly directed to the application of the Broadway and Seventh Avenue Railroad Company of New city for the approval of the Board of a change from s to cable power. The change has not yet been made, but ard understands that the reconstruction of the road will ,pleted in the spring. It is a work of great magnitude te results will be watched with much interest. The Board

## EIGHTH ANNUAL REPORT OF THE

trusts that the conditions imposed by the local authorities of the city of New York and by it, will insure satisfactory results as to speed, safety, and the general accommodation of the public.

The same remarks hold true with regard to the change from horses to cable upon Third avenue.

### APPLICATIONS FOR INCREASE OF CAPITAL STOCK.

Section 9 of the General Railroad Act was amended in 1880 by inserting the provision that no company should increase its capital stock except when sanctioned by a vote of two-thirds in amount of the stockholders and by the Board of Railroad Commissioners, and "in no case and under no circumstances shall any railroad company increase its stock except with such approval."

This amendment was made as a result of the recommendation of the Hepburn committee, for the purpose of preventing what is popularly known as "stock watering." It was the result of much agitation and represented a strong public sentiment opposed to the evils which inevitably result where outstanding obligations of a railroad corporation are largely in excess of its cost of construction and equipment.

The law, however, still permits a railroad corporation to increase its bonds without the approval of the Board, and it can issue them at any discount it sees fit. A corporation may hesitate to take this step, however, inasmuch as it has to pay the full face value of these bonds when they become due and the interest on the par value while outstanding. It is thus a very expensive way of obtaining money.

Stock issued at a great discount, however, affords opportunities for a large profit, provided the earning capacity of the road increases, but in case it does not, it offers opportunities for unscrupulous persons to obtain possession of the property at a nominal rate and administer it for their own private benefit without regard to public interests or the true interests of the property.

The Board in the exercise of its discretion has followed what it deems to be the spirit of the law and a conservative public sentiment. It has declined to approve of an issue of stock except at or nearly at par, and as a general rule has declined to approve

of an issue where the outstanding obligations are substantially in excess of the actual cost of construction and equipment, or where such stock when issued would bring about such excess.

It deems that it is further justified in this course by the provisions inserted in chapter 564 of the Laws of 1890, viz., the new Stock Corporation Law, the latest expression of the Legislature on this subject, which provides: "No corporation shall issue either stock or bonds except for money, labor done or property actually received for the use and lawful purposes of such corporation, at its fair value, and all stock or bonds issued in violation of the provisions of this section shall be void."

While this language is somewhat uncertain, if it means anything it would appear to be that stock when issued for money should only be issued at par.

Companies, however, seeking to increase their stock and to put it out at a discount, urge that the Board should approve of the issue at such discount as may be necessary to secure needed funds. In some cases, no doubt, a hardship is felt where a company is unable to secure par for its stock and can only issue its bonds at a great discount. The Board would be much embarrassed, however, if it approved of such increase at a discount, for the reason that it is practically impossible to approve of such increase in one case and not in another.

The Board trusts that a clear and definite expression of the legislative wish on this subject will be given.

It is proper to state that upon more than one occasion the Board has approved of an increase of stock with the understanding that such stock was to be issued at or nearly at par, and the proceeds thereof expended in the work of construction and equipment; that after such approval the corporation has issued bonds with the proceeds of which it has completed its construction and equipment, and has then issued the stock at a very great discount, in violation of its pledge to the Board.

#### PHYSICAL CONDITION OF RAILROADS.

ur attention is called to the reports of the Inspector as to physical condition of the railroads of the State to be found pages 198-253 of the Appendix.



The condition is improving year by year, and the benefit to the public and to the railroads themselves from these continued inspections can not be overrated.

#### LEGISLATION.

A radical change was made in the form and very material changes in the matter of the law regulating railroads, by the legislation of last year.

Under the provisions of chapter 289 of the Laws of 1889 (the previous year) a commission was appointed, consisting of Isaac H. Maynard, Charles A. Collins and Ely C. Belknap, to revise the laws of the State.

Their report was made to the Legislature of last year in the form of several bills amending and codifying the laws. Those which were passed particularly affecting railroads were as follows:

Chapter 95, entitled "An Act to amend the Code of Civil Procedure" (one section of which was later on amended by chapter 247) known as the "Condemnation Act."

*Second.* Chapter 563, entitled "An Act relative to corporations, constituting chapter 35 of the general laws," known as the "General Corporation Law."

*Third.* Chapter 564, entitled "An Act in relation to stock corporations, constituting chapter 38 of the general laws," known as the "Stock Corporation Law."

*Fourth.* Chapter 565, entitled "An Act in relation to railroads, constituting chapter 39 of the general laws," known as the "Railroad Law."

With the exception of chapter 95, none of the above-mentioned acts are to take effect until May 1, 1891.

Chapter 95, as amended by chapter 247, went into effect on the first day of May, 1890, and the Board publishes the same in this year's compilation of Railroad Laws, and has endeavored to strike out such acts or parts of acts formerly applying to the condemnation of real property as are repealed or superseded by said chapter 95.

It is assumed that at this session of the Legislature, and to the time the other three chapters are to go into effect, various changes will be made in the several acts.

The Governor referred to this Board for its opinion the bill which subsequently became chapter 565, entitled "An Act in relation to railroads, constituting chapter 39 of the general laws," known as the "Railroad Law." Your attention is particularly called to the Board's report to the Governor, to be found on page 26 of the Appendix, as it shows the modification in the law brought about by the act in question.

This act is a codification of the statutes of the State having special reference to railroad corporations. The Board in its report to the Governor calls attention, as briefly as possible, to each alteration or modification of the law that is brought about by the act. Where the Board calls no attention to a change, it finds that the law as incorporated in the act under consideration, or in the Stock Corporation Law, or in the General Corporation Law, or in the Condemnation Law, is substantially the same as at present.

In making the comparison the Board went *seriatim* through the compilation of railroad laws made by the Board in its Report for 1889, beginning on page 317 of the first volume.

It will be seen upon reference to this Report that a number of modifications of the law are made. The Board deems that a large majority of them are in the nature of improvements. With regard to some, however, the Board deems that amendments should be submitted to the Legislature before the act goes into effect, which will not be until May 1, 1891. The legislation of 1890 it was impossible to incorporate into the act as it did not exist at the time of submitting the bills. At the same time that amendments are made for this purpose, such as are necessary or desirable could be made with regard to the other subjects commented upon, and in a conference between the Chairman of the Board of Railroad Commissioners and a member of the Revision Commission, it was understood that most of the amendments deemed advisable by the Board of Railroad Commissioners would be submitted by the Revision Commission to your honorable body.

is particularly desirable that the numerous penalties for violation of different provisions of the Railroad Law which are omitted by the revision (the intention being to insert them in

the Penal Code) should be re-enacted before the law goes into effect.

In view of the necessity of the Revision Commission recommending various amendments to the law, this Board will not complicate the situation by drafting bills this year for the consideration of the Legislature, certainly at present. The Board, however, feels that it is its duty to again call the attention of the Legislature to certain subjects, which it deems should receive its consideration, and with reference to which it may hereafter submit drafts of bills if it shall be thought expedient after conference with the Revision Commission.

It may be proper to call attention to the fact that the recommendation of the Board so often made to previous Legislatures to amend the law by providing that the decisions of the Board should be subject to review by the courts and if found just and reasonable should be enforceable by mandamus, subject to appeal to the General Term and Court of Appeals, has been enacted into law, to go into effect May the first, 1891; also, the recommendation requiring the approval of the stockholders of both the lessor and lessee roads before a lease shall become valid.

The Board again recommends, however, that acts should be passed to secure the following objects:

*First.* An act with regard to grade-crossings;

1. To prevent railroads hereafter constructed from crossing highways at grade;

2. To prevent new highways being opened over railroads at grade;

3. To provide for the separation of grades between railroads and highways at present grade-crossings.

*Second.* An act to prohibit street railroads hereafter laying center-bearing rails and to compel such companies to replace the center-bearing rail now laid with a rail of better construction, at the rate of twenty per cent per annum, when so required to do by the local authorities of any city or village of the State.

*Third.* An act to prevent the unnecessary duplication of roads.

*Fourth.* An act to prevent discrimination by railroads against shippers by canal.

*Fifth.* An act to establish the responsibility of railroad corporations for damages by fire communicated from their locomotive engines.

The reasons for these several acts having been set forth in full in previous Reports, the Board does not deem it necessary to again repeat.

All of which is respectfully submitted.

WILLIAM E. ROGERS,  
ISAAC V. BAKER, JR.,  
MICHAEL RICKARD,

*Commissioners.*



# APPENDIX.

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## Decisions and recommendations:

Executive and legislative references.

Complaints of cities, towns, etc.

Applications for change of motive power.

Applications for increase of capital stock.

Applications for issue of bonds.

Applications to suspend operations of road.

Various applications by railroad companies.

Accidents.

Accident inquiries.

Length of railroads.

Inspections.

Minutes of Board.

Companies formed during 1890.

Company reorganized during 1890.

Leased roads, 1890.

Companies consolidated during 1890.

Extension of routes during 1890.

Surrender of capital stock, 1890.

Extension of corporate existence.

Enactments of year 1890.

Alphabetical list of all companies formed under laws of this State.

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## Condemnation Act.

General Railroad Act, and all acts (classified) relating to the railroads of this State.

Interstate Commerce Act.



# DECISIONS AND RECOMMENDATIONS.

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## EXECUTIVE AND LEGISLATIVE REFERENCES.

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### I.

REPORT OF THE BOARD ON THE SENATE BILL ENTITLED "AN ACT TO REGULATE RATES OF FARE FOR PASSENGER TRAFFIC ON THE RAILROAD OF THE TICONDEROGA RAILROAD COMPANY," REFERRED TO IT BY THE GOVERNOR.

ALBANY, February 4, 1890.

*To the Governor of the State of New York :*

The Board of Railroad Commissioners respectfully returns Senate bill (printed No. 33) entitled "An Act to regulate rates of fare for passenger traffic on the railroad of the Ticonderoga Railroad Company."

This bill provides that "The Ticonderoga Railroad Company is hereby authorized to charge a fare of twenty-five cents per person for passage one way over the whole or any portion of its railroad."

The proposed railroad is a short spur of about three and a half miles in length from Addison Junction of the New York and Canada railroad, leased by the Delaware and Hudson Canal Company, to the village of Ticonderoga.

It is represented to the Board by the Hon. T. J. Treadway, member of Assembly from Essex county and who resides at Ticonderoga, that this bill meets with the unanimous approval of the residents of that village and of people along the line of the road; that the village has for a long time desired the construction of a railroad from the Delaware and Hudson Canal Company's road to its business centre; that the village has a large water power which cannot be made available for manufacturing purposes unless the railroad is thus built, enabling the products of manufacture to be shipped away; that in the opinion of himself, Mr. Treadway, and residents of Ticonderoga, the rate of fare proposed to be charged by the bill will not be more than remunerative for the service rendered and that the people are very willing and anxious that the bill should pass.

A petition signed by 103 names of firms and individuals, apparently representing the public sentiment with regard to the bill, was presented to the Legislature and has been lodged with this Board in favor thereof. The petition is forwarded to you by the Board with the bill.

Hon. L. W. Emerson, representing this district in the Senate, also assured the Board that the people to be served by the road were unanimous in favor of this bill.



## LEGISLATIVE REFERENCES.

It is proper to say that there is a branch of the New York and Canada railroad already in operation from near Addison Junction, which passes near the village of Ticonderoga. It is on high ground, however, and inconvenient of access from the village.

Chapter 130 of the Laws of 1873 empowered the New York and Canada Railroad Company to charge not to exceed seventy-five cents for transporting each passenger over this entire branch, a distance of about five miles, and not to exceed twenty-five cents for each passenger traveling from or to Ticonderoga village.

A subdivision of section 17 of article 3 of the Constitution of the State, prohibits the Legislature passing private or local bills "granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever." Further on in the same article the words occur, "The Legislature shall pass general laws providing for the cases enumerated in this section and for all other cases which in its judgment may be provided for by general laws."

Whether such a bill as the one under consideration is in contravention of the above-quoted article, is a question constantly arising, and one with which the Governor is thoroughly familiar.

If there be no constitutional objection, the Board is of the opinion that the bill could meet with Executive approval without detriment to public interests.

By the Board.

## II.

REPORT OF THE BOARD ON THE BILL ENTITLED "AN ACT TO AUTHORIZE THE SENECA ELECTRIC RAILWAY TO OPERATE ANY PORTION OF ITS RAILROAD BY ELECTRICITY, INSTEAD OF LOCOMOTIVE STEAM POWER," REFERRED TO IT BY THE GOVERNOR.

ALBANY, March 4, 1890.

*To the Governor of the State of New York:*

The Board of Railroad Commissioners respectfully returns Senate bill (introductory No. 116) entitled "An act to authorize the Seneca Electric Railway to operate any portion of its railroad by electricity instead of locomotive steam power."

The Seneca Electric Railway was organized under chapter 430, of the Laws of 1874, known as the Foreclosure Act and consequently obtained all the rights, privileges and franchises which belonged to the corporation whose property and franchises were bought in at the foreclosure, i. e., the Seneca Falls and Waterloo Railroad Company.

The latter company was organized under chapter 197, of the Laws of 1866, a special act. It was provided in this act, however, that the original incorporators might organize under the General Railroad Act and enjoy all the privileges thereof, with the exception of the provisions of certain sections which are specifically mentioned.

Inasmuch as the new corporation is entitled to all the privileges of the old corporation, it would seem that it is entitled to those contained in subdivision 7 of section 28 of the General Railroad Act which provides that such corporation shall have power "to take and convey persons and property on their railroad by the power or force

of steam or of animals or by *any mechanical power*," in view of the fact that section 28, was not specifically excepted in the act of 1866.

On the other hand, however, section 4 of the act of 1866 says, "The cars used on said road shall be drawn by horses, mules or steam dummy engines." It might be claimed, and is probably feared by the promoters of this bill, that this section specifically restricting the method of motive power, withdraws the corporation from the privileges of section 28.

If this latter be the true view, it would be desirable that the bill should receive Executive approval. There appears to be no good reason why this corporation should not have the same privileges with regard to motive power that all other corporations have. Under any circumstances the passage of the bill could do no harm, as it would be a mere superfluity if the corporation already has the power under existing laws.

For the above reasons the Board deems that the bill could receive Executive approval without detriment to public interests.

By the Board.

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### III.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT GRANTING ADDITIONAL POWERS TO THE ROME, WATERTOWN AND OGDENSBURG RAILROAD COMPANY, A CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE," REFERRED TO IT BY THE GOVERNOR.

ALBANY, April 1, 1890.

*To the Governor of the State of New York:*

The Board herewith respectfully returns Assembly bill (printed No. 789) entitled "An act granting additional powers to the Rome, Watertown and Ogdensburg Railroad Company, a corporation organized under the laws of this State."

Section 1 of this bill provides as follows:

"The Rome, Watertown and Ogdensburg Railroad Company is hereby authorized and empowered to lease, purchase or build, operate and run steam ferries and other vessels for the transportation of passengers and freight between any of its termini on the river St. Lawrence or Lake Ontario to any place or point across the St. Lawrence river or Lake Ontario in the Dominion of Canada, but this franchise shall be exercised only under license and control of the local authorities respectively as they are now authorized to license and control ferries from their respective borders."

The question as to whether this measure is in contravention of that portion of section 18 of article 3 of the Constitution of the State, which provides that the Legislature shall not pass a private or local bill granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever, is respectfully called to your attention.

In 1884 a bill was passed, which is now chapter 193, of the laws of that year, providing that "Any steam railroad company incorporated under the laws of this State with a terminus in the harbor of New York is hereby authorized and empowered to purchase or lease boats pro-

pelled by steam or otherwise and operate the same as ferry or otherwise over the waters of the harbor of New York."

It will thus be seen that it was the declared policy of the State to permit railroad corporations to engage in transportation by boat or ferry through the harbor of New York for a distance not exceeding ten miles.

It is also well known that lines of steam vessels ply the lakes from Chicago, Duluth, Detroit and other lake ports to Buffalo either owned or controlled by the different railroad companies terminating in Buffalo. The Board is not aware of complaint or abuse incident to this condition of affairs.

Were the privileges that are intended by this bill to be given to the Rome, Watertown and Ogdensburg railroad extended to all railroad companies similarly situated, the Board in view of the above recited facts does not know of any detriment to public interests likely to accrue.

By the Board.

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#### IV.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT FIXING THE RATE OF FARE TO BE CHARGED BY THE KINDERHOOK AND HUDSON RIVER RAILWAY COMPANY, REFERRED TO IT BY THE GOVERNOR.

ALBANY, April 15, 1890.

*To the Governor of the State of New York :*

The Board herewith respectfully returns Assembly bill (printed No. 292) entitled "An act fixing the rate of fare to be charged by the Kinderhook and Hudson River Railway Company."

This bill provides that "The Kinderhook and Hudson River Railway Company is hereby authorized to receive and collect fare at the rate of five cents per mile and fraction thereof for each passenger carried on the railroad owned or operated by it and extending from the city of Hudson to the village of Niverville, Columbia county, New York."

The Board is informed by Mr. Gardenier, who introduced the bill and who lives upon the proposed line of railroad, that the road in question is a local road about twelve miles long, extending from Kinderhook station, or Niverville, on the Boston and Albany railroad to the city of Hudson; that the country is mountainous; that the road was somewhat expensive to construct; that he is assured that at the ordinary rate of three cents a mile, it would be impossible to operate the road at any profit; that even at the rate of five cents a mile the fares would be less than one-half the present rates paid to the stage line which runs along or nearly along the proposed line of road; that the road in question runs about midway between the Hudson river railroad and the Hudson branch of the Boston and Albany; that there is a considerable water power along the line of the valleys where this road runs which it is hoped may be developed into manufacturing enterprises and thereby justify the building of the road.

There are numerous cases throughout the State where short roads of this character have been permitted to charge higher rates of fare

than allowed under the General Railroad Act, as for instance, the Kaaterskill, the Stony Clove and Catskill Mountain, the Catskill Mountain, the Mt. McGregor, the Ticonderoga and others.

So far as the Board is informed, it does not deem that the approval of this bill will be attended with any detriment to public interests.

By the Board.

## V.

REPORT OF THE BOARD ON THE SENATE BILL ENTITLED "AN ACT FOR THE RELIEF OF THE BROOKLYN CITY RAILROAD COMPANY AS LESSEE OF THE FRANCHISES AND PROPERTY OF THE BUSHWICK RAILROAD COMPANY," REFERRED TO IT BY THE GOVERNOR.

ALBANY, April 29, 1890.

*To the Governor of the State of New York :*

The Board herewith respectfully returns Senate bill (introductory No. 451) entitled "An act for the relief of the Brooklyn City Railroad Company as lessee of the franchises and property of the Bushwick Railroad Company."

Chapter 254 of the Laws of 1867 provides that "any railroad corporation \* \* \* being the lessee of the road of any other railroad corporation may take a surrender or transfer of the capital stock of the stockholders \* \* \* whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock \* \* \* and whenever the whole of the said capital stock shall have been so surrendered or transferred \* \* \* the estate, property, rights, privileges and franchises of the said corporation whose stock shall have been so surrendered or transferred shall thereupon vest in and be held and enjoyed by the said corporation to whom such surrender or transfer shall have been made as fully and entirely and without change or diminution as the same were before held and enjoyed."

It appears that the Brooklyn City Railroad Company has leased the franchises and property of the Bushwick Railroad Company, and has received a transfer of all of the stock of the said Bushwick Railroad Company, with the exception of eight shares; that the Brooklyn City Railroad Company is unable to obtain the names or the whereabouts of the owners of these eight shares.

The bill under consideration simply gives the Brooklyn City Railroad Company all the rights that it would have had under chapter 254 of the Laws of 1867, had it the possession of these eight shares, saving the rights and privileges, however, of the holders of the eight shares.

The Board does not see any objection to the bill becoming a law and deems that it can receive Executive approval without detriment to any interest, public or private.

By the Board.

## VI.

REPORT OF THE BOARD ON THE SENATE BILL ENTITLED "AN ACT TO AMEND CHAPTER 345, LAWS OF 1888, ENTITLED 'AN ACT TO PROVIDE FOR THE RELIEF OF THE CITY OF BUFFALO, AND TO CHANGE AND REGULATE THE CROSSING AND OCCUPATION OF THE STREETS AND AVENUES AND PUBLIC GROUNDS IN SAID CITY BY RAILROADS,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, April 29, 1890.

*To the Governor of the State of New York:*

The Board herewith respectfully returns Senate bill (printed No. 226) entitled "An act to amend chapter 345 of the Laws of 1888, entitled 'An act to provide for the relief of the city of Buffalo and to change and regulate the crossing and occupation of the streets and avenues and public grounds in said city by railroads.'"

The original act, chapter 345 of the Laws of 1888, alluded to, created Robert B. Adam and eight other citizens of Buffalo a body of commissioners to enter into a contract on behalf of the city of Buffalo with any railroad companies for the relief of the city from the obstructions of the streets by railroads crossing the same at grade, "upon the plan recommended by a commission of engineers held at Buffalo, February the 28th, 1888, or upon any modification thereof, as to detail, which might be agreed upon by the parties to such contracts subject, however, to the approval of the city engineer."

Section five of that act provided that "If within six months from the passage of this act the said railroad companies decline or refuse to enter into the contract provided for in section one, the city may apply to a special term of the Supreme Court upon fourteen days notice to said railway companies, for the appointment of a commission of five disinterested persons, two and not more than two of whom, shall be citizens of Buffalo, as a commission to change and regulate the crossing and occupation by railroads of the streets, avenues and public grounds in the city of Buffalo."

The essential amendment of this act provided in the bill under consideration is the repeal of section five just quoted, and in substitution thereof the enactment of a provision to retain the original commissioners appointed under the original act instead of the substitution of five commissioners to be appointed by the Supreme Court.

Various other amendments are made in different sections of the bill, all of which are to bring the amended bill into harmony with this essential amendment.

The reason for the amendments, as represented to the Board by Senator Laughlin, the introducer of the bill, was that the original commissioners appointed by the act had carefully studied the situation of the grade crossings in Buffalo and had prepared plans for relieving the same in accordance with the report of the board of civil engineers of February 28th, 1888; that such commission, therefore, were better prepared to enforce the adoption of a plan for the relief of the crossings than a new commission of five men to be appointed by the court, who would have to go through the same process of education as the original commissioners had gone through. This reason seems a satisfactory one for the essential amendment.

It may be proper to say that in 1887 this Board made a careful examination and recommendation with regard to the grade crossings at Buffalo, the disregard of which by the railroad companies was the principal reason for the enactment of chapter 345 of the Laws of 1888.

It will be observed that under section one of the original act the commissioners are restricted to the plan recommended by the commission of engineers held at Buffalo, February 28th, 1888, or upon any modification thereof as to detail which may be agreed upon by the parties to such contracts, subject, however, to the approval of the city engineer.

The Board has obtained a copy of the report of the board of civil engineers, which is transmitted with this opinion. It is so vague in its terms that the determination of the method of relief is practically left to the discretion of the commissioners under the bill. In the report of the board of engineers certain plans of Mr. Buckholtz are constantly referred to, and indeed Mr. Buckholtz's plans are apparently made part of those approved by the board of engineers. All this makes the report of the board of engineers so confused as to be little or no guide to the commissioners in determining the plans to be adopted by them.

Attention is also particularly called to the fact that section five of the old act provides that if within six months from the passage of the act the said railroad companies decline or refuse to enter into a contract, the city may apply to the Supreme Court at a Special Term for the appointment of a commission of five disinterested persons to determine upon their plans.

On the first reading of this clause it would appear that if the plans proposed by the original commissioners had not been agreed to by the railroad companies within six months, these commissioners ceased to have any further power. On the other hand, however, it was claimed by the attorney for the commissioners that the application upon the part of the city was permissive, not mandatory; that the city might still permit or desire the commissioners to continue their efforts and if possible make a contract with some of the railroad companies. In conformity with this view, the commissioners did make a contract with the New York Central and Hudson River Railroad Company, providing for the separation of the grades on many of the streets, which was presumably satisfactory to both the railroad company and the city. This contract was made more than a year after the passage of the act. The Board understands that the commissioners regard this contract as valid and binding and propose to enforce its performance by both the city and the railroad.

A further provision in the bill under contemplation is to the effect that when the commissioners have determined upon some method of altering the grades, and if the respective parties in interest cannot agree upon the proportion of expense to be borne by each, the commissioners may apply to the Supreme Court at the Special Term hereof for the appointment of three commissioners to make such apportionment. The determination of these "apportionment commissioners" can be appealed from to the General Term. The General Term, on such appeal, is required to examine the proceedings before the commissioners and may affirm or modify the order of the Special

Term and the report of the commissioners, or reverse the same and remit the proceedings to the same commissioners or to new commissioners, to be appointed by the Special Term, and their report shall be final.

The objections to the bill under consideration are that there is no appeal provided from the determination of the commissioners as to the manner in which the grade crossings shall be separated. Their determination as to that is final. It is insisted by some of the railroad companies that this arbitrary power might be exercised in a tyrannical way, and subject both the railroads and the city to great and unnecessary expense. The only protection against this abuse is the provision that other commissioners may be appointed by the court to apportion the relative expense between the parties in interest, should they not agree.

This is the principal objection to the bill. The Board is not prepared to say that it should be regarded as a fatal objection, however, in view of the fact that if the bill does not become a law, the labors of the commissioners will have been in vain and a long time must elapse before new commissioners, appointed under the provisions of the original act by the courts, shall have matured a plan which will relieve the city from its immediate and pressing necessities.

In view of all the circumstances, therefore, the Board deems that the measure could receive Executive approval without likelihood of undue hardships being inflicted upon any of the parties in interest.

By the Board.

P. S.—The Board herewith transmits a copy of the old act and the amendments, in parallel columns, and also the report of the board of engineers alluded to.

## VII.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT TO AMEND SECTION 635 OF THE PENAL CODE," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 5, 1890.

*To the Governor of the State of New York :*

The Board of Railroad Commissioners respectfully returns Assembly bill (printed No. 339) entitled "An act to amend section 635 of the Penal Code."

The amendment consists in adding to section 635 the subdivision numbered four in the bill, the object of which is to bring roads operated by electricity under the same protection as the section heretofore gave to railroads operated either by steam or by horses.

The Board deems that this is a proper object and that the bill with propriety, receive Executive approval.

By the Board.



## VIII.

REPORT OF THE BOARD ON THE SENATE BILL ENTITLED "AN ACT TO AMEND CHAPTER 140 OF THE LAWS OF 1850, ENTITLED 'AN ACT TO AUTHORIZE THE FORMATION OF RAILROAD CORPORATIONS AND TO REGULATE THE SAME,' AND TO AMEND CHAPTER 62 OF THE LAWS OF 1853, ENTITLED 'AN ACT TO REGULATE THE CONSTRUCTION OF ROADS AND STREETS ACROSS RAILROAD TRACKS,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 20, 1890.

*To the Governor of the State of New York :*

The Board herewith respectfully returns Senate bill (printed No. 633) entitled "An act to amend chapter 140 of the Laws of 1850, entitled 'An act to authorize the formation of railroad corporations and to regulate the same,' and to amend chapter 62 of the Laws of 1853, entitled 'An act to regulate the construction of roads and streets across railroad tracks.'"

Section 24 of the General Railroad Act at present *permits* a railroad, hereafter constructed, to cross intersecting railroads, highways, turnpikes or plankroads over or under grade, but does not *compel* it to do so. The first section of the bill under consideration compels such railroad hereafter constructed to cross intersecting railroads, streets, highways, turnpikes or plankroads over or under, except when a grade crossing shall be approved by the Supreme Court. An appeal is provided for to the General Term.

The Board deems that this amendment is a most desirable one. It has recommended it to the consideration of the Legislature for the last six years.

Section two of the bill amends chapter 62 of the Laws of 1853, entitled "An act to regulate the construction of roads and streets across railroad tracks."

The act last quoted at present permits the authorities of any city, village or town in this State who are by law empowered to lay out streets and highways, to lay out any street or highway across the track of any railroad now laid, or which may be hereafter laid, at grade, without compensation to the corporation owning such railroad.

The bill under consideration amends section one by adding the words: "No street or highway within the limits of any city containing a population of 25,000 or more inhabitants, or within a radius of twenty-five miles of such city, shall hereafter be laid out, opened or constructed across any double, treble or quadruple-track railroad operated by steam, or across the tracks in any freight or passenger-station grounds of such railroad, on the same grade or level with such railroad, whether compensation be made to the corporation owning such railroad or not, without an order of the Supreme Court if public necessity requires such lay-out, opening and construction. Twenty days' notice of such application for such order shall be given the railroad company whose tracks are proposed to be so crossed. An appeal may be taken to the General Term of the Supreme Court in any such order."

The Board deems that the amendment is a most desirable one. It can be regretted that the operation of the amendment is restricted to the limits of any city containing a population of 25,000 or more



inhabitants, and to within a radius of twenty-five miles of such city, and also that the amendment does not apply to streets and highways laid out over single-track railroads. It is a step, however, in the right direction.

The third section of the bill exempts the city of Buffalo from its provisions.

This is a proper exemption, inasmuch as special statutes have been enacted with regard to that city which it would be unwise to interfere with.

The latter paragraph of section three further exempts from the provisions of the act the railroad of any company constructed hereafter, which company was organized under the laws of this State prior to the passage of this act.

The Board is of the opinion that this is an unwise amendment. There is no good reason why the provisions of the bill should not apply to all railroads hereafter constructed, whether organized prior to the passage of the act or not. This provision, however, is not a fatal defect in the bill.

Your attention is drawn to the fact that no provision is made for separating the numerous grade crossings at present existing throughout the State. It is to be hoped, however, that such a measure will be ultimately passed.

For the reasons hereinbefore given the Board deems that this measure could receive Executive approval with great benefit to public interests.

By the Board. \_\_\_\_\_

## IX.

REPORT OF THE BOARD ON THE SENATE BILL ENTITLED "AN ACT TO AMEND CHAPTER 549, LAWS OF 1888, ENTITLED 'AN ACT RELATING TO THE CORPORATE RIGHTS AND POWERS OF STREET SURFACE RAILROAD COMPANIES,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 20, 1890.

*To the Governor of the State of New York:*

The Board herewith respectfully returns Senate bill (printed No. 389, Executive No. 175) entitled "An act to amend chapter 549 of the Laws of 1888, entitled 'An act relating to the corporate rights and powers of street surface railroad companies.'"

The original act, i. e., chapter 549 of the Laws of 1888, the fourth section of which the bill under consideration amends, was referred by you to this Board and a report made thereon, dated the 28th of May, 1888, to be found on page 93, first volume of the Railroad Commissioners' Report for 1888.

It will be seen upon reference to that report that the original applied only to the street surface railroad company which "complete a railroad upon the greater portion of the route designated in articles of association within ten years from the date of filing articles of association in the office of the Secretary of State, which has operated such completed portion of its railroad continuously for a period of ten years last past, and is now operating same."

It was explained to the Board by Senator Pierce, the introducer of the original bill, and Mr. Thomas S Moore, that it was only intended to apply to the Bushwick Railroad Company, and that it was made general in its terms so as not to contravene the twelfth clause of section 18 of article 3 of the Constitution of the State.

The amendment in the bill under consideration does not appear to extend the operation of the act to any other railroad other than such as were defined in the original act, the number of which must be necessarily very limited, the Board supposed only one, viz.: the Bushwick railroad.

The amendment is as follows :

"All consents of *such* local authorities in cities whose population did not exceed 160,000 \* \* \* to the right, franchise and privilege of using any street, road, avenue or public place which have been, prior to the year 1889, sold under the provisions of chapter 65 of the Laws of 1886, or of any act amendatory thereof, are hereby ratified, confirmed and vested in any and all purchasers thereof who shall have entered upon the construction of the route sold and otherwise complied with the provisions of such act."

The word "such" before the words "local authorities" would seem to restrict the operation of the amendment to the local authorities having the control of the streets through which the railroads contemplated in the original act run. If these be the only railroads that the amendment affects, the Board knows of no objection to it.

If, however, it is a general provision applicable to all railroads in cities whose population did not exceed 160,000, the Board deems it is a doubtful measure, as there may be cases where the consent of the local authorities have lapsed and should not be revived by legislation.

By the Board.

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ALBANY, May 23, 1890.

*To the Governor of the State of New York :*

On the twentieth inst., the Board transmitted a report upon Senate bill (printed No. 389, Executive No. 175) entitled "An act to amend chapter 549 of the Laws of 1888, entitled 'An act relating to the corporate rights and powers of street surface railroad companies.'"

Your attention is again respectfully called to this report.

The closing sentence of the report in question is "if, however, it is a general provision applicable to all railroads in cities whose population did not exceed 160,000, the Board deems that it is a doubtful measure, as there may be cases where the consent of local authorities have lapsed and should not be revived by legislation."

Mr. C. M. Bushnell has assured the Board that the only object of the amendment is to cure a defect in the Buffalo West Side railroad in reference to the publication of the notice of hearing before the common council; the said notice having been published three times a week for three weeks instead of daily for fourteen days.

The measure appears to be a desirable one of relief for the Buffalo corporation, and there does not appear to be any appreciable danger its resulting in abuse in view of the restricted number of corporations to which the amendment applies under any circumstances.

By the Board.

## X.

REPORT OF THE BOARD ON ASSEMBLY BILL ENTITLED "AN ACT TO AMEND SECTION FOUR, CHAPTER 252, LAWS OF 1884, ENTITLED 'AN ACT TO PROVIDE FOR THE CONSTRUCTION, EXTENSION, MAINTENANCE AND OPERATION OF STREET SURFACE RAILROADS AND BRANCHES THEREOF IN CITIES, TOWNS AND VILLAGES,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 20, 1890.

*To the Governor of the State of New York:*

The Board herewith respectfully returns Assembly bill (printed No. 965, Executive No. 57) entitled "An act to amend section four of chapter 252 of the Laws of 1884, entitled 'An act to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages.'"

The act amends section four of the General Street Railroad Act by inserting the words "and the consent heretofore or hereafter given as aforesaid by the board of managers or other governing body of any State institution now invested by law, with the general direction and control of the property and concerns of such State institution, shall operate as the consent of the State of New York as the owner of any property occupied by such State institution that such railroad may be constructed, maintained and operated in, upon and along any street, avenue, road or highway by which such State property is bounded."

The General Street Railroad Act makes provision as to how the consent of a city, town or village as the owner of any property along the proposed route may be obtained, but that statute contains no provision whatsoever indicating how the consent of the State, as the owner, is to be obtained.

The amendment in the bill under consideration supplies this omission.

It may be pertinent to say that in the case of the application of the Buffalo East Side Railroad Company for the consent of this Board to a change of motive power, the question arose as to who, on behalf of the State, had the authority to grant either an original consent for the construction of a street railroad or consent to a change of motive power.

The matter was referred to the Hon. Charles F. Tabor, Attorney-General, who reports that in his opinion "there is a clear case presented of the omission or failure of the statute to provide how the consent of the State, as the owner of lands adjacent to the street in question, should be obtained with reference to the proposed change of motive power of this railroad company — an omission which calls for further legislation."

The amendment in the bill under consideration supplies the omission, and the Boards deems that it merits Executive approval.

By the Board.

## XI.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT RELATIVE TO CONSENTS TO STREET SURFACE RAILROAD COMPANIES," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 20, 1890.

*To the Governor of the State of New York:*

The Board herewith respectfully returns Assembly bill (printed No. 1377, Executive No. 206) entitled "An act relative to consents to street surface railroad companies."

o This bill provides that "No consents heretofore and prior to the passage of this act given by the local authorities of any incorporated city or village to and for the construction and operation of any street surface railroad within this State shall cease and determine or be deemed to have heretofore ceased and determined, provided that within two years from the date of the passage of this act the consents of the owners of one-half in value of the property bounded on that portion of any street, avenue or highway upon which such railroad is proposed to be constructed and operated shall be obtained, or the determination of commissioners appointed by the General Term of the Supreme Court in the district in which said railroad is proposed to be constructed and operated in favor of such construction and operation shall be confirmed by the court in lieu of the consent of the property owners."

Section two of chapter 642 of the Laws of 1886, known as the amended Cantor Act, provides that all consents given by the local authorities shall cease and determine at the expiration of two years thereafter unless prior to the expiration of such period the consent of a majority in value of the abutting property holders or of a commission appointed by the court shall have been obtained.

The bill under consideration revives the consent of local authorities long since ceased and determined, provided that within two years from the date of the passage of the bill the consents of the abutting property owners or commissioners appointed by the court shall be obtained.

The Board deems that the measure is most undesirable.

By the Board.

## XII.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT TO AMEND CHAPTER 407 OF THE LAWS OF 1888, ENTITLED 'AN ACT RELATIVE TO RAILWAYS IN THE TRANSVERSE ROADS OF CENTRAL PARK IN THE CITY OF NEW YORK,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

*the Governor of the State of New York:*

he Board of Railroad Commissioners respectfully returns Assembly (printed No. 950, Executive No. 131) entitled "An act to amend chapter 407 of the Laws of 1888, entitled 'An act relative to railways in the transverse roads of the Central park in the city of New York.'"

The original act, being chapter 407 of the Laws of 1888, provides in section one that "For the purpose of providing for the more speedy transportation of persons across the Central park in the city of New York, it shall be lawful for the department of public parks, with the concurrence of the sinking fund commissioners of said city, to construct railways in and upon the roads in said park known as the transverse roads, and to contract in the name of the mayor, aldermen and commonalty of the city of New York with any persons or corporations for the construction, equipment and running of the same, either with or without public advertisement, upon such terms and conditions, including the rates of fare to be charged to persons using such railroads, \* \* \*

The bill under consideration inserts the words at this point, "and rates for the use of such railways by connecting lines, and the right of which use is declared open and public to all connecting lines."

The object of the amendment is to permit more than one connecting line to use the transverse roads in the park — a very proper amendment and one which merits Executive approval.

The second amendment occurs in section two of the bill and consists merely in inserting in section two of the original act the words "as hereinbefore provided," to make it conform to the amendment to section one.

The Board deems that the bill is a proper one and merits Executive approval.

By the Board. \_\_\_\_\_

### XIII.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT FOR THE RELIEF OF THE PEOPLE'S RAILROAD COMPANY OF SYRACUSE," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

*To the Governor of the State of New York:*

The Board herewith respectfully returns Assembly bill (printed No. 918, Executive No 55) entitled "An act for the relief of the People's Railroad Company of Syracuse."

Section one of the bill relieves the People's Railroad Company of Syracuse from constructing that portion of its road in the city of Syracuse on a large number of streets.

This bill is opposed in a brief from J. C. Fowler, an adjacent property owner, for various reasons which need not be repeated here.

Your attention is drawn to the fact that an amendment to the street railroad leasing act of last year, being chapter 532 of the Laws of 1889, makes provision for the abandonment of unnecessary portions of street railroads with the consent of two-thirds of the stockholders of the company and the approval of the State Board of Railroad Commissioners. The act is not applicable, however, to cities having less than 800,000 population, and would therefore not cover this case.

There appears to be no provision of law by which a street railroad in cities of less than the above population can abandon any portion of its route.

It can be well conceived that cases might arise where such abandonment would be proper and expedient. The merits of the particular case in question the Board is not familiar with.

It may be proper to say that an act for the relief of the Utica Belt Line Street Railway Company was passed last year with your approval, being chapter 408, in a similar case.

By the Board.

#### XIV.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT RELATIVE TO PERCENTAGES TO BE PAID BY STREET SURFACE RAILROAD COMPANIES," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

*To the Governor of the State of New York:*

The Board herewith respectfully returns Assembly bill (printed No. 1467, Executive No. 132) entitled "An act relative to percentages to be paid by street surface railroad companies."

The bill is similar in its provisions to one which was referred by you to this Board last year. To that one, however, there were certain very objectionable features in regard to reviving consents of local authorities which had lapsed which do not appear in this bill.

The Board again repeats its language of last year as follows:

"It will be seen that provision is made by the bill for reducing the percentages to be paid by street railroads heretofore constructed when such railroads can show, to the proper city authorities, that the percentage bid is an unjust burden upon them.

"Objection is raised to this bill by some upon the ground that the percentage bid and agreed upon by the corporation becomes part of a contract with the city which is entered into deliberately, with its eyes open, and to which it should be bound to conform as any other business man or company is bound to conform to the terms of a contract into which he enters. It is also urged that if the franchise turns out extremely profitable the city derives no benefit from such profit over and above the amount that it agreed should be paid into its treasury.

"On the other hand, however, advocates of the measure hold that the rigid conditions of a contract between private individuals or companies should not be imposed by government upon its citizens when it can be shown that the citizen or corporation is unduly burdened and, perhaps, broken by the terms of such contract.

"In view of the checks provided by the bill and of the obligation thrown around the corporation to demonstrate that the burdens imposed by the bid are intolerable, the Board is of the opinion that, on the whole, the act could, without detriment to public interests, and very likely with justice to private interests, receive Executive approval."

By the Board.



## XV.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT TO AMEND SECTION 56 OF THE CODE OF CRIMINAL PROCEDURE," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

*To the Governor of the State of New York :*

The Board herewith respectfully returns Assembly bill (printed No. 1406, Executive No. 230) entitled "An act to amend section 56 of the Code of Criminal Procedure."

Section 56 of the Code of Criminal Procedure provides that "the courts of special sessions, except in the city and county of New York and the city of Albany, have power, subject to the provisions hereinafter contained, to hear and determine charges for any of the following crimes committed within their respective counties \* \* \* intoxication of a person engaged in running any locomotive engine upon any railroad or while acting as conductor of a car or train of cars on any such railroad."

The amendment under consideration adds the words "or a misdemeanor committed by any person on a railroad car or train."

The Board understands that the object of including misdemeanors committed on a car or train is to insure the more speedy trial and punishment than can be obtained before the courts of general sessions, which now have jurisdiction of such crimes and which are not sitting all the time.

The Board deems that the amendment is a desirable one and merits Executive approval.

By the Board. \_\_\_\_\_

## XVI.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT FURTHER TO EXTEND THE TIME WITHIN WHICH THE EAST SIDE AND MOUNT VERNON RAILWAY SHALL COMPLETE THE SEVERAL PORTIONS OR SECTIONS OF ITS RAILWAY," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

*To the Governor of the State of New York :*

The Board herewith respectfully returns Assembly bill (printed No. 1016, Executive No. 158) entitled "An act further to extend the time within which the East Side and Mount Vernon Railway shall complete the several portions or sections of its railway."

The East Side and Mount Vernon Railway Company was organized March 25, 1881, under the Rapid Transit Act, being chapter 606 of the Laws of 1875. In the report to the State Engineer for 1881 the company states that by the terms of the charter the company had five years within which to finish the first section of the road.

In 1886 an act was passed, being chapter 57 of the laws of that year, extending the time within which to complete that part of the railway first to be constructed for five years from and after the passage of the act. This would bring the time to the 16th of March, 1887.

The reasons for the Board's approving of the first extension can be found on page five of the first volume of the Report of the Board for 1886.

It appears from that report that the northern terminus of the road is on the New York, New Haven and Hartford Railroad, midway between Mount Vernon and Pelhamville; that its southern terminus is at a point in the middle of the Bronx river, where it effects a junction with the Suburban Elevated Railroad, whose southern terminus is at One Hundred and Fifty-eighth street, in the city of New York, on the north side of the Harlem river, where it connects with the northern end of the Second avenue bridge.

The East Side and Mount Vernon Railroad Company had not then been constructed, for the reason that its usefulness was dependent upon the construction of the Suburban Elevated Railroad, with which it is provided it shall effect a connection.

The Board has not before it the necessary information to positively determine upon the merits of this bill, but it presumes that the reasons for the extension in 1886 still exist, and in the absence of any knowledge as to why the extension should not be granted, presumes that the bill might receive Executive approval without detriment to public interests.

By the Board.

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## XVII.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT TO AMEND SECTION 426 OF THE PENAL CODE," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

*To the Governor of the State of New York:*

The Board herewith respectfully returns Assembly bill (printed No. 1405, Executive No. 221) entitled "An act to amend section 426 of the Penal Code."

Subdivision 3 of section 426 now provides that a person "who willfully obstructs, hinders or delays the passage of any car lawfully running upon any horse or street railway," is guilty of a misdemeanor.

The amendment under consideration inserts the words "steam or," so that, it now reads "running upon any steam or horse or street railway."

The Board deems that the amendment is a desirable one and merits Executive approval.

By the Board.



## XVIII.

REPORT OF THE BOARD ON ASSEMBLY BILL ENTITLED "AN ACT TO ALLOW DOMESTIC ELECTRIC-LIGHT AND POWER CORPORATIONS TO BUILD, MAINTAIN AND OPERATE BY ELECTRICITY AS A MOTIVE POWER RAILROADS OTHER THAN STREET SURFACE RAILROADS NOT EXCEEDING TWENTY MILES IN LENGTH," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

To the Governor of the State of New York :

The Board herewith respectfully returns Assembly bill (printed No. 1392, Executive No. 99) entitled "An act to allow domestic electric-light and power corporations to build, maintain and operate by electricity as a motive power railroads other than street surface railroads not exceeding twenty miles in length."

The title fairly indicates the object of this bill.

The phraseology of the first section is open to criticism. It is as follows:

"SECTION 1. All stockholders of any domestic electric-light and power company incorporated under a general law, and having at least five stockholders and actually carrying on business in this State, may execute and file in the office in which the original certificates of incorporation thereof are filed, an amended certificate of incorporation complying in every other respect than as to the number of signers, who shall be not less than five, and as to the number of directors, who shall be not less than five, with the provisions of sections one and two" of the General Railroad Act.

The bill further on provides that such corporation shall otherwise be subject to all the provisions of the general railroad laws of the State and have all the powers, rights and privileges thereby conferred upon railroad corporations.

The Board understands that the object of this bill is to permit the Electric Construction Company, of Greenwich, N. Y., to build and operate an electric railway in that vicinity, to be operated by the excess of power from the electric plant over that necessary to light the village.

It is a matter of somewhat questionable propriety to invest manufacturing enterprises with the power and privilege of building a railroad. The laws of the State clearly provide what measures shall be taken by companies intending to construct and operate railroads. To confer the power to do so upon companies organized for other purposes might lead to abuse.

However, inasmuch as the bill under consideration subjects the company to all the provisions and restrictions of the general railroad laws of the State, and does not permit the construction of such roads in any city of the State, the Board does not know that the general objections suggested are of a fatal character.

By the Board.

## XIX.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT SUPPLEMENTAL TO CHAPTER 606, LAWS OF 1875, ENTITLED 'AN ACT FURTHER TO PROVIDE FOR THE CONSTRUCTION AND OPERATION OF A STEAM RAILWAY OR RAILWAYS IN THE COUNTIES OF THIS STATE,' AND PROVIDING FOR THE CORRECTION AND AMENDMENT OF ARTICLES OF ASSOCIATION, ETC.," REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

*To the Governor of the State of New York:*

The Board herewith respectfully returns Assembly bill (printed No. 1466, Executive No. 280) entitled "An act supplemental to chapter 606 of the Laws of 1875, entitled 'An act further to provide for the construction and operation of a steam railway or railways in the counties of this State,' and providing for the correction and amendment of articles of association prepared by commissioners appointed thereunder, and authorizing actions based thereon and conferring additional powers upon the common council of cities."

This act was passed in the last few days of the session, having passed the Senate May seventh, and is intended to revive the charter of the New York Cable Railway Company.

The circumstances leading to the passage of this bill are doubtless known to you, but a brief narration of them is given:

On November the 30th, 1883, a board of commissioners was appointed by the mayor of the city of New York in pursuance of the provisions of the Rapid Transit Act, *i. e.*, chapter 606 of the Laws of 1875, to lay out certain routes. This commission laid out twenty-nine different routes to occupy some seventy miles of the most desirable streets of the city of New York, mostly on the surface, and then formed the New York Cable Railway Company under the provisions of the act, to construct the roads in the manner provided.

The attempt to thus pre-empt seventy miles of the best streets of the city by a single company was greeted with a storm of indignation from the press and from abutting property holders on the lines of many of the proposed routes. Some of the commissioners themselves were staggered at their own work, but explained their conduct upon the ground of the necessity of additional rapid transit.

The articles of association of the original company were filed in the office of the Secretary of State April the 22d, 1884.

The company claims to have made an effort to procure the consents of the abutting property holders, as required by the constitution and the law, to the construction of the railroads on the different routes, but that it was unable to do so. It, therefore, adopted the alternative provided for and applied to the Supreme Court for the appointment of commissioners whose consent to the construction of the road could be taken in lieu of that of the property holders when commanded by the Supreme Court.

The report of these last commissioners, giving consent, was duly secured by the company. A motion was then made before the general term of the Supreme Court for the confirmation of the report of the commissioners. It was denied in a decision handed down March the 14th, 1886. An elaborate opinion was rendered by Judge Daniels, in

which he expresses the view that a street surface railroad was never intended to be built under the Rapid Transit Act, that there were fatal defects in the organization of the company by the rapid transit commissioners in various ways, more particularly in that the time was not definitely fixed within which the construction was to be completed and that the character of the structure was not sufficiently defined to conform to the requirements of the State, and, finally, that the applicant was prohibited from constructing and operating a surface railroad by section 16 of chapter 252 of the Laws of 1884, known as the General Street Railroad Act, which latter act was passed before the cable company had acquired any vested rights to thus construct surface street railroads.

His opinion is concurred in by Judge Brady. Judge Davis concurred in the conclusion to deny the motion, but dissented from the reasons for such conclusion as given by Judge Daniels. The case was appealed to the Court of Appeals. The conclusion of the General Term was sustained, but for different reasons from those assigned by the judges of the General Term.

The Court of Appeals found numerous fatal defects in the organization of the company as effected by the rapid transit commissioners, but overruled the opinion of Judge Daniels as to the prohibitive effect of section 16 of the General Street Railroad Act. (104 N. Y., pp. 1-44).

Subsequently, the company again reached the Court of Appeals in an appeal from an order of the General Term of the Supreme Court in the first judicial department, made June the 18th, 1887, which denied the petitioners' application for a rehearing of the motion to confirm the report of the commissioners originally appointed by the General Term to determine whether the petitioners' proposed railway ought to be constructed and operated, and also denying the application for an order remanding to said commissioners their report for further hearing.

The Court of Appeals again sustained the General Term in holding that they were without jurisdiction to entertain the petitioners' application, and their order should be confirmed with costs. (109 N. Y., p. 32 *et seq.*)

It will thus be seen that the Cable company had been defeated in every case before the courts to sustain the legality of its organization or its right to secure the benefit of these seventy miles of the streets of the city of New York.

It now seeks to cure the fatal defects of its organization by the bill under consideration.

The first section of the bill provides: "In case it appears by judicial proceedings heretofore or hereafter had that any commissioners appointed pursuant to the first and thirty-ninth sections of chapter 606 of the Laws of 1875, who have framed articles of association for the formation of a company to construct, operate and maintain a rail way or railways \* \* \* shall have failed to prepare such article in such manner as to conform to the law, it shall be the duty of such commissioners, or the persons who acted as such or their successors, appointed as herein provided on the request of said company to meet and amend said articles by correcting or supplying

any defects or omissions therein, provided, however, that the amendment so made shall be consistent with the provisions of law in force at the time said articles were originally framed."

Further on the bill provides, "and *any attempted action* of any such commissioners heretofore had in the correction of defects or in supplying omissions in any such articles prepared by them, which could have been had under the provisions of this act if it had been in force, is hereby declared to be valid."

This is a most extraordinary provision. Its perusal is sufficient to condemn it. It is intended to validate an attempt upon the part of the commissioners to correct certain defects which were declared by the court to be fatal.

Further on a provision occurs in the bill as follows: "No law passed since the filing of said original articles shall be construed as affecting said company or any proceedings under this act or its rights as they would have existed if such defect or omission had not occurred in said articles."

This is intended to nullify the prohibition in section 16 of the General Street Railroad Act providing that no surface railway shall be constructed under the provisions of the Rapid Transit Act.

*Second.* Section two begins by saying, "No such company whose rights are located in any city shall proceed to construct its road unless it shall, after the passage of this act, obtain the consent of the common council of such city to the construction of its railway, or such portion thereof as the common council may deem it for the public interest to authorize, together with the consent of the owners of one-half in value of the abutting property, or in lieu thereof the assenting determination of commissioners appointed by the Supreme Court and confirmed by said court."

This provision is well enough in its way, but the company, under the constitutional restrictions, could not construct any of its road without obtaining these consents, particularly in view of the fact that in its effort to obtain the confirmation of the court to the consent of commissioners in lieu of property holders, such confirmation was denied.

The question can pertinently be asked here: How often shall a company be permitted to apply for commissioners, in lieu of the consents of abutting property holders, when the report of commissioners thus appointed has been refused confirmation by the Supreme Court?

*Third.* Section two further provides that "consent may be granted by the common council, conditioned on the agreement by said company to pay to the said city as compensation for the rights, franchises and privileges granted to it, in addition to the taxes to which it may be liable, five per cent of the gross yearly receipts of said railway upon its traffic, which payments in this section provided shall constitute the sole compensation to be made by such company for such rights, franchises and privileges granted, any acts or parts of acts to the contrary notwithstanding."

The Board deems that this provision alone would be sufficient to justify the withholding of Executive approval, for the reason that it is in direct contravention of the requirements of the Cantor act. It may be remarked here that Judge Davis, in his opinion hereinbefore cited,

states that to him the serious and fatal objection to the confirmation of the report of the commissioners, appointed in lieu of property owners, existed in the failure of the commissioners to provide for any adequate compensation, in the present and future, to the people of the city for the valuable franchises which the public authorities were called upon to cede by a practically perpetual title to the petitioner.

The General Street Surface Railroad Act, in section eight, provides that "every corporation in cities having a population of 250,000 or more shall pay into the treasury three per cent of its gross receipts at first, and after five years, five per cent. The Cantor act provides that in addition to these payments the franchise shall be sold at public auction to the company which bids the highest. Some companies in New York have bid as high as thirty per cent in addition to the three and five per cent provided by law. Why should this company, therefore, be relieved from the payments made applicable to all others by the Cantor act?

*Fourth.* The bill proceeds further to materially modify the law as now existing in favor of the New York Cable Railway Company by the following provisions:

"The common council may, if it deem such course for the public interest, give its consent for the construction of railways on only a portion of the routes described in the articles of association of such company and may thereafter, from time to time, give its consent to the construction of railways on all or any portions of the other routes named in the articles of association or may, with the consent of the company, as a condition of its consent, require the abandonment of all rights to build a railway on any specified route or routes named in the articles of association. And the common council may authorize a modification of the plans prescribed by the commissioners on any of the routes or parts thereof, and may authorize additional sidings, switches and turnouts to be constructed, with provisions for elevators and cranes in order to facilitate access to and use of the stations and railways. The common council may, from time to time, extend or alter any route provided for in said articles of association and authorize additional tracks to be constructed on any such route to enlarge the facilities thereof so as to enable the said company to connect its railways on the routes it is from time to time authorized to operate with any steam railway, bridge, dock or ferry in said city \* \* \* provided that no authority or consent of the common council or of other local authority hereinafter referred to, to the construction of additional tracks on routes located by said rapid transit commissioners or to the construction of any railroad on any extension of routes authorized or consented to by them shall be effectual for any purpose without the like consent and approval of the abutting property owners," etc.

There appears to be no reason why the law with regard to the modification of routes, as provided in section 39 of the Rapid Transit Act, should be thus modified in favor of this company, but there appears to be every reason against it.

*Fifth.* Another provision of section two is, "Said common council or other local authority may authorize the use of any motive power other than animal on all or any portions of the routes except that it shall not authorize the use of steam locomotive power on the surface of any street."

The Board deems that this is an exceedingly bad feature, inasmuch as no provision is made for the consent of the abutting property holders as to the kind of motive power to be used. In the opinion of the Board this alone would be a fatal defect to the bill. It is also



direct contravention of section 12 of the General Street Railroad Act which provides that the consent of the property owners should be obtained before any change of motive power.

For the above reasons and for others which could be adduced, but for the charge of making this communication too long, the Board deems that the bill is a most dangerous one and would result in much evil should it receive Executive approval.

By the Board.

## XX.

REPORT OF THE BOARD ON THE SENATE BILL ENTITLED "AN ACT TO AUTHORIZE THE DEPARTMENT OF PUBLIC PARKS IN THE CITY OF NEW YORK TO GRANT TO THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY A REVOCABLE LICENSE TO OCCUPY A STRIP OF LAND ON THE WESTERLY SIDE OF BRONX PARK IN THE TWENTY-FOURTH WARD, FOR A PASSENGER STATION," ETC., REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

*To the Governor of the State of New York :*

The Board herewith respectfully returns Senate bill (printed No. 504, Executive No. 219) entitled "An act to authorize the department of public parks in the city of New York to grant to the New York Central and Hudson River Railroad Company a revocable license to occupy a strip of land on the westerly side of Bronx park in the Twenty-fourth ward of said city, for a passenger station and the approaches thereto for the convenience of persons visiting such park and others."

The title clearly indicates the object of the bill.

The piece of land is described in the bill as being 18.10 feet wide by 561.61 feet long.

The Board can see no objection to the bill and deems that it can with propriety receive Executive approval.

By the Board.

## XXI.

REPORT OF THE BOARD ON THE SENATE BILL ENTITLED "AN ACT TO REPEAL CHAPTER 608, LAWS OF 1887, ENTITLED 'AN ACT TO EXTEND THE CHARTER OF THE DELHI AND HUDSON RIVER RAILROAD COMPANY,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

*To the Governor of the State of New York :*

The Board herewith respectfully returns Senate bill (printed No. 387, Executive No. 81) entitled "An act to repeal chapter 608 of the Laws of 1887, entitled 'An act to extend the charter of the Delhi and Hudson Railroad Company.'"

The act repealed is as follows:

'SECTION 1. The time for the Delhi and Hudson River Railroad Company begin the construction of its road and to expend thereon the per cent the amount of its capital is extended to the first day of December, 1890.'

There appears to be no objection to this bill becoming a law. The object thereof is simply to bring the Delhi and Hudson River Railroad company under the provisions of the general laws of the State.

By the Board.

## XXII.

REPORT OF THE BOARD ON THE SENATE BILL ENTITLED "AN ACT TO AMEND CHAPTER 189, LAWS OF 1888, ENTITLED 'AN ACT TO AMEND CHAPTER 616, LAWS OF 1887, ENTITLED AN ACT TO REGULATE THE HEATING OF STEAM PASSENGER CARS, AND TO PROVIDE FOR THE PLACING OF GUARDS AND GUARD-POSTS ON RAILROAD BRIDGES AND TRETTLES AND APPROACHES THERETO,'" REFERRED TO IT BY THE GOVERNOR.

ALBANY, May 21, 1890.

*To the Governor of the State of New York :*

The Board herewith respectfully returns Senate bill (introductory No. 724, Executive No. 91) entitled "An act to amend chapter 189 of the Laws of 1888, entitled 'An act to amend chapter 616 of the Laws of 1887, entitled An act to regulate the heating of steam passenger cars, and to provide for the placing of guards and guard-posts on railroad bridges and trestles and the approaches thereto.'"

Section two of chapter 189 of the Laws of 1888 at present reads: "In special cases the Board of Railroad Commissioners may extend the time for a period not exceeding one year from November the first, 1888, for any steam railroad doing business in this State to heat its passenger cars by any stove or furnace kept inside the car or suspended therefrom."

The first section of the bill under consideration amends section two by adding the words: "And said Board, may in their discretion further extend such time upon any narrow-gauge railroad in this State.

To this amendment there can be no reasonable objection, inasmuch as the number of narrow-gauge roads is small, and there are but few that do not already come within the exemption of the original steam-heating act, viz., chapter 616 of the Laws of 1887, which exempts railroads less than fifty miles in length.

The second amendment in the bill under consideration reads as follows: "The provisions of the act of which this is amendatory, shall not apply to any narrow-gauge railroad in this State, which does not run any other than mixed trains between October fifteenth and May first."

There appears to be no objection to this amendment further than its superfluity, inasmuch as the original steam-heating act, *i. e.*, chapter 616 of the Laws of 1887, already exempts mixed trains.

By the Board.

## XXIII.

REPORT OF THE BOARD ON THE ASSEMBLY BILL ENTITLED "AN ACT IN RELATION TO RAILROADS, CONSTITUTING CHAPTER 39 OF THE GENERAL LAWS," REFERRED TO IT BY THE GOVERNOR.

ALBANY, June 3, 1890.

*To the Governor of the State of New York :*

The Board herewith respectfully returns Assembly bill (printed 1355, Executive No. 170) entitled "An act in relation to railroads constituting chapter 39 of the general laws."

This bill is a codification of the statutes of the State having special reference to railroad corporations, made by a commission appointed under chapter 289 of the Laws of 1889, consisting of Isaac H. Maynard, Charles A. Colliard and Ely C. Belknap.

The Board in the accompanying comments calls to your attention, as briefly as possible, each alteration or modification of the law that would be brought about by this bill becoming law.

Where the Board calls attention to no change, it finds that the law as incorporated in the bill under consideration, or the Stock Corporation Law (Assembly bill, printed No. 982, Executive No. 169), or the General Corporation Law (Assembly bill, printed No. 983, Executive No. 118) or in the Condemnation Law (chapter 95 of the Laws of 1890), all of which measures emanated from the Law Revision Commission, is substantially the same as at present.

In making the comparison the Board goes *seriatim* through the compilation of the railroad laws made by the Board of Railroad Commissioners in its report for 1889, beginning on page 317 of the first volume.

It will be observed that a number of modifications of the law are made. The large majority of them are in the nature of improvements. With regard to some, however, the Board deems amendments should be submitted to the Legislature before the act goes into effect, which will not be until May, 1891, to bring the new law to conform to the old.

The legislation of 1890 it was impossible to incorporate into the Code, as it did not exist at the time of submitting the bill. At the same time amendments are made for this purpose, such as are necessary or desirable could be made with regard to the other subjects commented upon.

The Board has conferred with the revisers, who agree in the desirability of proposing to the Legislature the amendments suggested.

As a whole, in view of the simplification of the law, of the reconciliation of many conflicting statutes and of the positive improvement in many respects, the Board deems that the bill could receive Executive approval with benefit to all interests concerned.

By the Board.

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#### COMMENTS OF THE BOARD OF RAILROAD COMMISSIONERS UPON THE SAME.

1. Section one of the General Railroad Act, *i. e.*, chapter 140 of the Laws of 1850, provides that "Any number of persons not less than twenty-five may form a company," etc.

Section two of the revision provides that "fifteen or more persons may become a corporation."

Thus, hereafter, the number of persons necessary to form a corporation would be ten less than at present.

2. Section one of the same act prescribes thirteen as the number of directors.

Section two of the revision prescribes not less than nine.

3. At the end of section nine of the General Railroad Act there is a provision making it a misdemeanor, punishable with fine and imprisonment, to violate the section.



This penal provision does not appear in the revision.

4. Section 10 of the General Railroad Act, together with section 5 of title 3 of chapter 18, part 1 of the Revised Statutes, which are made applicable to the General Railroad Act, provides that "every stockholder \* \* \* shall be individually liable to the creditors of such company to an amount equal to the amount, *unpaid* on the stock held by him, for all the debts and liabilities of such company until the whole amount of the capital stock so held by him shall have been paid to the company."

Sections 57 and 58 of the Stock Corporation Law provides, "The stockholders \* \* \* shall jointly and severally be personally liable to its creditors to an amount equal to the amount of stock held by them respectively for all debts and contracts made by the corporation until the whole amount of its capital stock shall have been paid in."

The liability in the revision is thus made much greater than in the old law. The Board knows of no reason for this.

5. Section 10 of the General Railroad Act also provides that the stockholders "shall be jointly and severally liable for the debts due to any of its laborers for personal services for thirty days service performed for such company."

Section eight of chapter 392 of the Laws of 1875 extends the liability of stockholders to debts due for personal services for ninety days service.

Sections 57 and 58 of the Stock Corporation Law puts no limit to the length of service, and renders the stockholders liable for any and all personal service of employees, provided that within two years action be brought.

6. Section 11 of the General Railroad Act provides that "No person holding stock in any such company as executor, administrator, guardian or trustee \* \* \* shall be personally subject to any liability as stockholder of such company."

Section 37 of the Stock Corporation Law contains the same provision as to the non-liability of a guardian, executor or trustee unless he shall have voluntarily invested the trust funds in such stock.

This appears to be a desirable amendment.

7. Section 12 of the General Railroad Act provides that "As often as any contractor \* \* \* shall be indebted to any laborer for thirty days or any less number of days labor performed in constructing such road" the company is rendered liable for such debt. The same provision exists in section 16 of the Rapid Transit Act, chapter 606, Laws of 1875.

Section 50 of the revision substitutes ninety days for thirty days and substitutes six months instead of thirty days within which an action can be commenced.

8. In section 14 of the General Railroad Act, in the article providing for the proceedings to be taken in condemning real estate provision is made that in the petition to the court for the appointment of commissioners of appraisal, the petition must state, among other things, that at least \$10,000 for every mile of its rail proposed to be constructed in this State have been, in good faith subscribed to its capital stock, as required by that act, and ten per cent thereof paid in (\$1,000 per mile), except in case of a railroad company with a single track not exceeding 100 miles in length,

petition must state that at least \$5,000 for every mile of its railroad have been subscribed and twenty per cent paid in.

There appears to be nowhere in the revision any requirement that these percentages should be paid in.

The corresponding provision in the revision, to these requirements, is found in subdivision 12 of section two, which provides that the original certificate of incorporation shall have endorsed thereon that ten per cent of the minimum amount of capital stock has been subscribed and ten per cent thereon paid in. This, in case of standard gauge roads, would be but one per cent on \$10,000, or \$100 per mile. The act should be amended to require at least \$1,000 per mile before beginning condemnation proceedings.

Attention is drawn to the fact further that no provision is made in the revision with regard to single track roads less than 100 miles in length not being required to have more than \$5,000 of stock per mile. It may be said, however, that this amendment was for the purpose of a particular road, that its purpose has been fulfilled and that probably there is no necessity for its re-enactment.

9. Section 15 of the General Railroad Act provides, in reference to the petition for the appointment of commissioners to condemn real estate, that "all or any of the persons whose estates or interests are to be affected by the proceedings, may show cause against granting the prayer of the petition and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make any order for the appointment of three disinterested and competent freeholders who reside in the county or some adjoining county where the premises to be appraised are situated."

Sections 3367, 3368 and 3369 of the Condemnation Law makes much fuller provision for the trial of the question as to whether commissioners should be appointed than obtains in the present law. This would seem to be in the nature of further protection to real estate owners against their property being summarily taken by corporations.

10. Section 17 of the General Railroad Act provides, "that on the report being made by the commissioners of appraisal the company shall give notice to the parties or their attorneys to be affected by the proceedings \* \* \* for the confirmation, and the court shall thereupon confirm such report," etc.

Section 3371 of the Condemnation Law provides that the court may confirm the report or may set it aside for irregularity or for error of law, or upon the ground that the award is excessive or insufficient. This appears to be an improvement.

It is proper to say that the mode of procedure under the Revision General Condemnation Act is somewhat altered, but the Board believes it has indicated the material changes brought about.

1. Section 24 of the General Railroad Act provided that "when the track of a railroad \* \* \* shall cross a railroad, highway plankroad, such highway, turnpike or plankroad may be carried over or over the track as may be found most expedient."

This section has been amended this year by an act (viz.: Senate bill No. 633, Executive No. 183) providing that such intersecting road hereafter constructed *must* be carried either over or under

intersecting highways, except when otherwise permitted by order of the Supreme Court. The same bill amends section one of chapter 62 of the Laws of 1853. The latter act permitted local authorities or highway commissioners to lay out new streets or highways at grade over railroads. The Senate bill (printed No. 633) amended that act by prohibiting the laying out of new streets over existing railroads at grade except by order of the Supreme Court.

These amendments should be incorporated in the revision before it goes into effect.

12. Subdivision six of section 28 of the General Railroad Act provides that "every company whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections and grant the facilities aforesaid."

This provision is incorporated into section 12 of the revision.

Senate bill (printed No. 633, Executive No. 183) quoted above, under comment 11, prohibits any railroad hereafter constructed intersecting any railroad already constructed at grade except by the order of the Supreme Court. There is a palpable conflict, therefore, in the law which ought to be reconciled before the revision goes into effect.

13. Subdivision 10 of section 28 of the General Railroad Act now permits the directors of a railroad company to issue bonds secured by a mortgage upon the corporate property and franchises, provided a majority in amount of its stockholders shall approve thereof at a meeting called for that purpose. In case any directors or officer of a railroad corporation shall vote for, sign or certify to any bond secured by mortgage or pledge of the corporate property without the issue thereof having been thus sanctioned by a majority vote of the stockholders, the same subdivision 10 says that he shall be punishable by a fine not exceeding \$5,000 or by imprisonment not exceeding one year or by both.

Section two of the Stock Corporation Law provides that such bonds so secured shall not be issued without the written consent, duly acknowledged, of the stockholders owning at least *two-thirds* of the stock of the corporation, and such consent shall be filed and recorded in the office of the clerk or register of the county where it has its principal place of business.

So far as the penal offense is concerned it is to be provided for in the Penal Code. The civil liability is provided for in section 24 of the Stock Corporation Law, by making such director liable to the holder of the bonds for the amount thereof and for any damages caused thereby.

This changes the law, however, in requiring the written consent of two-thirds of the stockholders, instead of a majority.

It would seem that a majority of the stock would be sufficient to authorize the bonding of a road.

14. Section 30 of the General Railroad Act requires that certain employees shall wear caps or badges to indicate their office, and that no "conductor or collector without such badge shall be entitled demand or receive from any passenger any fare or ticket, or to exercise any of the power of his office, and no officer or servant without such badge shall have authority to meddle with or interfere with a passenger, his baggage or property."

The corresponding provision in the revision, viz., section 43, provides to the same effect, but further provides that "no conductor or employee of a railroad corporation, employed \* \* \* at stations for passengers, shall exercise *any* of the powers of his employment without such badge."

This amendment appears to go further than was probably intended by the revisers. The original section was doubtless intended to require anybody who came in contact with the public to wear a badge indicating his official position. There are many employees, however, such as carpenters, plumbers, switchmen, car inspectors, etc., employed about passenger stations who do not come in contact with the public, and with regard to whom there appears to be no necessity of rendering every act illegal if they do not wear a badge. Without such badge, however, under the provision of the revision, such employee would be illegally performing every function. It would appear that this should be amended before the act goes into effect.

15. Sections 31 and 22 of the General Railroad Act, as modified by chapter 353 of the Laws of 1882 (creating the Board of Railroad Commissioners), provided for the filing of annual and other reports with the Board of Railroad Commissioners.

This section was amended by chapter 98 of the Laws of 1890 in various ways. Among others, to the effect that every corporation owning, leasing or operating a railroad or railroad cars wholly or partially within this State should make both annual and quarterly reports, and changed the date for making such annual reports from the thirtieth of September, as heretofore, to the thirtieth of June.

The corresponding provision in section 57 of the revision, does not provide for all the corporations provided for in said chapter 98. The revision should be amended to correspond to chapter 98 before it goes into effect.

16. Section 34 of the General Railroad Act provides "Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on their road or roads respectively, and in case such corporation shall not agree as to the rate of transportation therefor, or as to the time, rate of speed \* \* \* it shall be lawful for the Governor of the State to appoint three commissioners who, or a majority of them, after fifteen days' notice in writing of the time \* \* \* shall fix the prices, terms and conditions as aforesaid."

This section is to be considered with section 17 of chapter 215 of the Laws of 1846 to the same general effect, and which in addition provides that every railroad company which shall neglect or refuse to enter into such contract upon being so required shall forfeit to the people of this State \$100 for every day it shall so neglect or refuse.

The corresponding provision in section 56, of the revision, substitutes the State Board of Railroad Commissioners for the commissioners to be appointed by the Governor. No provision, however, is made for imposing a penalty in case of the refusal of a railroad company to conform to the determination of the Railroad Commission.

17. Section 36 of the General Railroad Act, together with section 9 chapter 270 of the Laws of 1847, provides, among other things, that whenever the railroad of any corporation at or near the same place meets with or is intersected by any other railroad, such corporation shall fairly and impartially grant and afford to each of such com-



peting companies or associations, equal terms of accommodation, privileges and facilities in the transportation of property \* \* \* and every railroad corporation shall be liable to the party aggrieved in an action for damages for any neglect or refusal in the premises." The provisions of the section apply to all existing corporations.

The corresponding section of the revision, viz., section 35, further provides that the Board of Railroad Commissioners may, upon the application of the corporation owning or operating either of the connecting or intersecting roads and upon fourteen days' notice to the corporation operating the other road, prescribe such regulations as will secure, in their judgment, the enjoyment of equal privileges; that the decision of the commissioners shall be binding upon such parties for two years, and that the Supreme Court shall have power to compel the performance thereof by attachment, mandamus or otherwise.

18. Section 37 of the General Railroad Act and certain other statutes prescribe that checks shall be given for baggage.

Chapter 270 of the Laws of 1847 provides in section eight that no provision of the preceding sections shall be deemed in any way to affect the ordinary baggage of passengers, providing the same shall not exceed in weight 100 pounds.

The implication has been drawn from this that a passenger has a right to carry baggage to that amount of weight, and it appears to be the only provision of law defining and fixing the weight.

In the corresponding section of the revision, in reference to checks, viz., section 44, no provision is made in regard to weight of baggage.

An amendment on this subject would be desirable.

19. Section 44 of the General Railroad Act, together with chapter 282 of the Laws of 1854 and certain other statutes, provides for the fencing of railroads.

Section nine of the last quoted statute provides that "it shall be the duty of every owner of land adjoining any railroad who has received or whose grantor has received a specific sum as compensation for fencing \* \* \* to build and maintain such fence, and if the owner, his heir or assign, shall not build such fence within thirty days after he has been notified so to do by the said railroad company, and shall neglect to maintain said fences if built, said corporation shall build and thereafter maintain such fence and may maintain a civil action against the person so neglecting to build or maintain said fence to recover the expense thereof."

In the corresponding section of the revision, viz., section 32, the word "may" is substituted for "shall," leaving it discretionary with the corporation whether it build the fence under such circumstances or not.

The Board is of the opinion that the word "shall" should be restored in the interest of public safety so that the corporation should be obliged to build the fence and recover the expense afterwards, if it is entitled to it.

20. Section 44 of the General Railroad Act provides "if any person shall ride, lead or drive any horse or other animal upon such road within such fences and guards, other than at farm crossings, with the consent of the corporation, he shall for every such offense for

a sum not exceeding ten dollars and shall also pay all damages which shall be sustained thereby to the party aggrieved."

The Board finds no corresponding provision in the revision or code. It deems that this provision should be added to the revision to prevent people driving horses or cattle on a railroad track, as public safety is thus endangered.

21. The act creating the Board of Railroad Commissioners makes no provision for a review of its recommendations by the courts, and for the enforcement of the same when found to be just and reasonable.

Sections, five, six, seven and eight of the act, viz., chapter 353 of the Laws of 1882, deal with this subject.

In the corresponding provisions of the revision, viz., sections 160, 161 and 162, a provision is inserted that "the Supreme Court at Special Term, shall have power in its discretion in all cases of decisions and recommendations by the Board, which are just and reasonable, to compel compliance therewith by mandamus, subject to appeal to the General Term and Court of Appeals, and upon such appeal the General Terms and the Court of Appeals may review and reverse upon the facts, as well as the law."

This measure has been recommended by numerous individuals, organized commercial bodies, the press, the Chamber of Commerce of the State of New York, and the Court of Appeals. It is absolutely necessary to enable the Board to redress many of the grievances which come before it for which there is no other redress, and in the nature of things cannot be.

22. Section seven of the act creating the Board of Railroad Commissioners (chapter 353 of the Laws of 1882) provides that "every officer, agent or employee of any railroad company, who shall upon due notice neglect or refuse to make or furnish any statement or report required by said commissioners, in their judgment necessary to the purposes of this act, or who shall wilfully hinder, delay or obstruct the said commissioners in the discharge of the duties imposed by this act, shall be guilty of a misdemeanor."

There is no corresponding provision in the revision, but the Board understands that it is the intention of the revision commission to recommend an amendment to the Penal Code, incorporating this and other misdemeanor clauses omitted in the present revision.

Attention is also drawn to a clerical error in the fifth line of section 161 of the engrossed bill, wherein it says, "repairs necessary 'within' any railroad of the State." It should be "repairs necessary 'upon' any railroad."

23. Chapter 917 of the Laws of 1869, and other statutes, provide for the consolidation of railroads. The closing provision of section one of the above statute is that corporations may consolidate "whenever the railroads or branches or any part of the railroad or branches the companies or corporations so to be consolidated shall or may form a continuous or connecting line of railroad with each other or by means of any intervening railroad bridge or ferry."

In the corresponding section of the revision, i. e., section 70, in the thirteenth line of the printed bill, occur the words, "or by means of any intervening railroad, bridge or ferry."

It will be observed that a comma is inserted after the word "railroad," materially altering the meaning of the act. The Board believes

that the word "railroad" is intended to modify the word "bridge." Under this reading railroads could consolidate when, among other things, they are connected by an intervening railroad bridge.

With the comma inserted, any two railroads in the county could consolidate, inasmuch as almost every railroad is connected with every other by an intervening railroad. It would appear that the comma should be stricken out. This view is sustained by the fact that there is no comma in the engrossed act, chapter 685 of the Laws of 1881, which amended the first section of the act of 1869. It is probable the comma got in by inadvertence.

24. Chapter 573 of the Laws of 1868 provides that the proprietors of any steamboat or line of steamboats navigating the Hudson river are authorized and empowered to furnish tickets, upon being paid therefor, for the transportation of passengers from any station on the line of any railroad terminating at the city of Albany or Troy, for the convenience of such passengers, from the city of Albany or Troy to the city of New York, on the said steamboats, etc.

Section three of the act provides that "it is hereby made the duty of every railroad company which terminates at the city of Albany or Troy, on application being made therefor by the proprietor of any steamboat \* \* \* to furnish them with tickets for the transportation of passengers from the city of Albany or Troy to any point on the line of their respective roads," etc.

Section six of the act provides that "the provisions of this act, so far as relates to the sale of tickets and the furnishing of checks, shall not apply either to the Hudson River or the New York and Harlem Railroad Company."

The corresponding section of the revision, i. e., section 47, makes the provisions of the act applicable to all railroad and steamboat lines. The provisions as to furnishing of tickets and checks are not compulsory, but only permissive.

25. Chapter 697 of the Laws of 1866 provides that any number of persons not less than ten may form themselves into a company for constructing a railway, to be propelled by a rope or cable attached to stationary power, and the directors of any such company may be limited to five.

The revision provides that all railroad companies shall have at least fifteen persons to become a corporation and at least nine for a board of direction.

26. Section five of chapter 560 of the Laws of 1871 provides that corporations may form under the General Railroad Act for constructing narrow-gauge railroads, when the articles provide for not less than \$3,000 of stock per mile, of which \$1,000 a mile shall be subscribed for and ten per cent thereof, or \$100 per mile, actually paid in.

The corresponding section in the revision, as to the amount to be subscribed, is found in subdivision 12 of section two, where it says that ten per cent of the minimum amount of capital stock shall be subscribed, and at least ten per cent of such subscription shall have been paid in.

The ten per cent to be subscribed would be \$300 and the ten per cent paid in would be thirty dollars. This should be amended to conform to the general law and in conformity with comment No. 8.

Section six of chapter 560 of the Laws of 1871 provides that a narrow-gauge railroad company may commence proceedings to condemn land when \$2,000 per mile has been subscribed and ten per cent paid in, or \$200 per mile.

There is no corresponding provision in the revision, but proceedings to condemn land could be taken when but thirty dollars in cash per mile had been paid in as above noted. This section should be amended.

The same section (six of chapter 560, Laws of 1871) provides that in case the weight of rail shall not exceed twenty-five pounds per lineal yard, such railroad company shall not use an engine exceeding eighteen tons weight, or run at a greater speed than fifteen miles per hour.

There is no corresponding provision to this in the revision. The probabilities are there is no necessity for such.

27. Chapter 775 of the Laws of 1867 provides that any corporation shall have ten years from the date of filing its articles of association to complete its road. Chapter 598 of the Laws of 1875 extended the time to any then existing railroad corporation two years, making twelve years. Chapter 350 of the Laws of 1879 extended the time to any existing railroad corporation two years more, making fourteen years. Chapter 405 of the Laws of 1882 extended the time to any railroad corporation theretofore organized and which had not then commenced the construction of its road, two years more, making sixteen years.

It is more than probable that all these acts of extension, except that of 1867 limiting the time to ten years, have become obsolete, but it is possible that there may be some roads still affected by them which would not come under the provision of the corresponding section in the revision, viz., section five, which gives ten years in which to complete the road.

28. Chapter 264 of the Laws of 1878 provides for the reduction of the capital stock of corporations, including railroad corporations.

Section three of the act provides that the certificate shall be filed in the office of the Secretary of State, with the approval of the Comptroller endorsed thereon to the effect that the reduced capital is sufficient for the proper purposes of the company and is in excess of all debts and liabilities of the company, exclusive of debts secured by trust mortgages, and that the actual market value of the stock of the company, prior to the reduction of the capital, was less than the par value of the same.

In the corresponding provision of the revision, i. e., section 46 of the Stock Corporation Law, the Board of Railroad Commissioners is substituted for the Comptroller with regard to railroad corporations. No specific requirements are provided but it appears to be left discretionary with the Board to approve or not.

29. Chapter 218 of the Laws of 1839 provided that any railroad corporation may contract with any other railroad corporation for the use of their respective tracks.

The corresponding provision of the revision, being section 78 thereof, provides that before such lease becomes operative it shall have been approved by a two-thirds vote of the stockholders. It further provides that the lease shall be recorded.

The Board regards the provision with regard to the approval of the stockholders as a most desirable amendment to the law. The



Board has pointed out frequently in its annual report the great scandals and outrages that have occurred in this State and throughout the country from unscrupulous directors being permitted to lease roads without the approval of the stockholders.

A further provision in the revision is incorporated in section 30 thereof, prohibiting parallel or competing lines being leased one by the other.

This brings the leasing act to conform to the consolidation act, which since 1869 has prohibited parallel or competing lines consolidating.

30. Section one of chapter 444 of the Laws of 1857 provides that it shall be lawful for any mortgagee of any railroad and the franchisees thereof to become the purchaser of the same at any sale thereof under the mortgage, etc., and to hold and convey the same with all the rights and privileges belonging thereto or connected therewith.

The corresponding provision of the revision, viz., section 81, provides that the purchaser may not hold the property for a period exceeding six months.

The object of this is not plain unless it be that the law is not intended to encourage individuals owning and operating railroads, but requires that it shall be a corporation.

31. Chapter 430 of the Laws of 1874 provides methods of foreclosing mortgages on railroads. For some reason it excepts street railroad companies from its provisions.

Street railroad companies are not excepted from the foreclosure provisions provided in section five of chapter 140 of the Laws of 1850, the General Railroad Act. There appears to be no reason why they should be excepted from the provisions of chapter 430 of the Laws of 1874, which latter act merely amplifies the provisions in section five of the General Railroad Act.

In the corresponding sections of the revision, i. e., sections three, four and five of the Stock Corporation Law, street railroads are very properly not excepted.

#### *Rapid Transit Act.*

32. Chapter 606 of the Laws of 1875, known as the Rapid Transit Act, provides for five commissioners to be appointed by the board of supervisors of a county or the mayor of a city, upon the petition of fifty reputable householders, to lay out rapid transit routes.

The corresponding provision of the revision, i. e., section 120 of the railroad laws, provides that these commissioners shall be appointed by the Supreme Court when the application of the fifty reputable householders shall have been approved by the mayor or board of supervisors, as the case may be.

The reasons for this change are set forth in the report of the revision commissioners and need not be repeated here further than to say that the expressed object is to simplify the law and render the commissioners thus appointed by the Supreme Court competent to assess and specifically apportion damages to abutting property holders as well as to perform the other duties prescribed by the act. Whether this specific apportionment of damages, in addition to the other duties, might not impose excessive labor on the commissioners, is hereafter discussed under comment 34.

**33.** Section four of chapter 606 of the Laws of 1875 provides that the commissioners "shall have the exclusive power to locate the route or routes of such railway or railways over, under, through or across the streets, avenues or land in such county, except Broadway and Fifth avenue below Fifty-ninth street, Fourth avenue above Forty-second street" in the city of New York, and certain other streets in the city of Brooklyn and the city of Buffalo.

This section was amended by chapter 485 of the Laws of 1881 and among other things the word "and" was substituted for the word "above" before "Forty-second street." This was probably a clerical error as Forty-second street is not only frequently crossed, but has a railroad actually built in it.

The word "above" should be restored as in the original act.

*Second.* It will be observed that the provision applies to the locating a route across Broadway and Fifth avenue below Fifty-ninth street, as well as locating such route upon, under or above the same.

In the corresponding section of the revision, i. e., section 123, the last words provide, "but such railway may be located and constructed across such excepted streets, avenues and places at their intersection only with other streets, avenues and places."

The Board is of the opinion that the revision should be amended so as to prohibit the crossing of Broadway and Fifth avenue or Fourth avenue above Forty-second street, in conformity with the present law.

*Third.* There have been also other acts passed exempting certain streets in New York, Brooklyn and Buffalo, as for instance, chapter 529 of the Laws of 1879, which exempts in the city of New York Second avenue below Twenty-third street, Nassau street, Printing House Square, so called, south of Frankfort street, Park Row, Broadway south of Murray street, Broad street and Wall street.

For the above reason the Board deems that an amendment should be attached to the end of section 123 of the revision of the railroad laws to the effect that "Nothing herein contained shall authorize the location of any route over, under, through or across any street or avenue now exempt by law;" or that the streets now exempted should be specifically exempted by name in an amendment to the revision.

**34.** Section six of the Rapid Transit Act was very materially amended by chapter 393 of the Laws of 1882. The amendments, however, were not applicable to New York and Westchester nor to Kings county after June 3, 1886. (See chap. 551, Laws 1886.)

Among the amendments was the very important provision that the original commissioners appointed by the mayor should determine within 110 days the *aggregate pecuniary* damage arising from the diminution in value of the property bounded on that portion of such street or highway upon which it is proposed to construct and operate such railroad.

In the corresponding provision of the revision, i. e., section 125, the amendments of 1882 are made applicable to all cities and counties.

While there may be no objection to most of the amendments of 1882 being applicable to New York, it would probably be an impossibility for the commissioners to determine within 110 days the aggregate damages to property holders in addition to all the other duties imposed upon such commissioners. The revision not only imposes the duty of ascertaining the *aggregate* damages in the lump to all abutting property

holders, but also that of apportioning the *specific* damages to each abutting property owner. In the act as it is, this specific apportionment may be the duty of several separate commissions. Under the revision it all falls upon the original commissioners appointed.

It may be further remarked that this would impose so much labor upon the original commissioners, extending for a period of time of 140 days (about five months) at least, and occupying their exclusive time and attention, that it is very doubtful whether persons competent to perform all these varied duties could be obtained for the compensation of ten dollars a day fixed by section 134 of the revision. If an appeal were taken under section 3375 of the Condemnation Act, considerable more of the commissioners' time would be taken. The duties too would be of the most varied kind, such as it is not likely that any five men could intelligently and satisfactorily perform.

The Board is of the opinion that the revision should be amended so as to permit more than one set of commissioners to be appointed to award or apportion damages.

35. Section seven of the Rapid Transit Act was amended by chapter 393 of the Laws of 1882 to the effect that the failure "by any corporation heretofore or hereafter organized under this act to complete its railway within the time limited in and by its articles of association, shall work a forfeiture of the franchises of such corporation only with respect to that portion of its route, which such corporation shall have failed to build."

This provision is not applicable to New York and Westchester, nor to Kings since June 3, 1886. In the revision, however, it is made so applicable.

36. Section eight of the Rapid Transit Act prescribes that when the necessary amount of capital stock shall have been subscribed, by not less than twenty-five persons, the commissioners shall call a meeting of such stockholders for organization, who shall elect directors, the number of which shall be determined by the commissioners.

The corresponding section of the revision, *i. e.*, section 127, substitutes fifteen persons for organization, and prescribes not less than nine for directors.

37. Sections 13 to 25 inclusive, of the Rapid Transit Act, provide for the methods of acquiring real estate by condemnation. The provisions are taken word for word, with slight changes, from the corresponding provisions in the General Railroad Act, chapter 140 of the Laws of 1850.

The corresponding provisions in the revision are to be found in the Condemnation Law, chapter 95 of the Laws of 1890. The same comments that the Board made when considering the General Railroad Act, *i. e.* comments 9 and 10, are applicable in considering the Rapid Transit Act.

Attention is called, however, to the fact that provisions in regard to abandoning and recommencing proceedings to acquire real estate, which occur in the General Railroad Act, do not occur in the Rapid Transit Act, but they appear in the Condemnation Law as applicable to all railroads.

38. Subdivision six of section 26 of the Rapid Transit Act provides that the corporation may borrow money and mortgage the corporate property and franchises to secure the payment of any debt.

The corresponding section of the revision, *i. e.*, section two of the Stock Corporation Law provides further that the consent of two-thirds in value of the stockholders must be obtained, and that furthermore the mortgage shall not exceed two-thirds in value of the property.

The Board deems that this amendment in the revision, requiring the consent of stockholders is a great improvement, but deems that a majority consent would be perhaps more desirable than a two-thirds consent.

39. Section 27 of the Rapid Transit Act requires certain employees to wear badges.

The corresponding section in the revision is to be found in section 43.

The same comment can be made here as was made on section 30 of the General Railroad Act of 1850, hereinbefore in comment 14.

40. Section 28 of the Rapid Transit Act provides for a corporation conveying the mails.

The corresponding section in the revision is section 56.

Attention is drawn in this connection to comment 16, hereinbefore made.

41. Section 36 of the Rapid Transit Act provides, among other things, how connection may be made with any steam railway or railways, now in actual operation or with steam ferries.

There appears to be no provision giving authority to compel such connections under condemnation proceedings.

The corresponding section of the revision, *i. e.*, section 131, provides for compulsory connections under the provisions of the Condemnation Law.

42. Section 39 of the Rapid Transit Act provides for the appointment of new commissioners to authorize the change or abandonment of the route of a railroad, located under the act by the mayor of a city or supervisors of a county.

This provision is changed in the corresponding section of the revision, *viz.*, section 136, by providing that the commissioners to change the route, shall be appointed by the Supreme Court upon the application of the corporation, approved by the mayor or supervisors, as the case may be.

This amendment is made to conform to the amendment in section 120 of the revision, as to the original appointment of commissioners. These same commissioners are furthermore authorized to appraise the damages to abutting property-holders, instead of a new set of commissioners.

43. Section 41 of the Rapid Transit Act makes it unlawful for any company organized under the provisions of the act or any other act theretofore passed, to construct a steam railway upon St. Nicholas avenue in the city of New York, or those streets or avenues in said city commonly known as boulevards, except to cross the same under such regulations as shall be imposed by the commissioners provided for by that act.

There appears to be no corresponding provision in the revision. The Board deems that it should be inserted, and refers to the third subdivision of comment 33 hereinbefore made upon the same subject.

44. Sections 42 to 49 inclusive of the Rapid Transit Act provide that in all localities, other than the counties of New York and Westchester,

and Kings county subsequent to June 3, 1886, at any time not less than two years nor more than three years after the completion and operation of the railway or railways, any owner of or party having or claimed to have an estate or interest in any of the property bounded on that portion of any street or highway upon which such railway shall have been constructed, may petition the Supreme Court at any general term thereof held in the judicial district in which such railway shall be located, for the appointment of commissioners to apportion among the persons entitled thereto under the provisions of the act, the money described in the sixth section thereof.

Provision is elaborately made for the manner in which this shall be done.

These sections are all repealed by the revision. The original commissioners appointed are substituted in place thereof with power to determine the damages and distribute the moneys before the erection of the railroad.

The saving clause, however, of the revision act would doubtless enable such moneys to be distributed under these sections notwithstanding the repeal. The provisions of the revision, therefore, would only apply to roads hereafter constructed.

45. No provision appears to be made in the revision for selling the right to construct a road through the streets unless organized under the provisions applicable to street surface roads.

Under the law as it is (Cantor act), railroads organized under the Rapid Transit Act, unless elevated roads, must be sold at public auction, as must also elevated roads in New York city.

#### *General Street Railroad Act.*

46. Section one of the General Street Railroad Act (chapter 252 of the Laws of 1884) provides that the articles of association, among other things, shall state the names and descriptions of the streets, avenues and highways in which the road is to be constructed.

There is no corresponding provision in the revision either in section 90 or in section two.

It would seem that section 90 should be amended in this respect.

47. The General Street Railroad Act provides for a minimum of seven directors.

The revision provides for a minimum of nine.

48. The act now provides in section three, that the road must be built on the surface.

The revision says nothing about "surface." It should be amended by inserting this word in section 90.

49. The General Street Railroad Act at present uses the word "local" authorities.

The revision uses the words "municipal" authorities.

Inasmuch as the constitutional provision in section 18 of article three uses the words "local" authorities, having control of the street etc., the Board deems that "local" is a preferable word.

50. Section three of the General Street Railroad Act at present provides that "in any city, the common council, acting subject to the power now possessed by the mayor to veto ordinances \* \* \* shall be the local authorities to give the consents required under this act."

Under section 91 of the revision it provides that the common council, "subject to the veto power of the mayor" shall be such authorities.

It would appear that this wording in the revision gives the mayor the absolute veto power; whereas, the act as it is qualifies such veto power as that requisite to veto ordinances.

It would appear that the revision should be amended in this respect.

61. A provision in the present law and also in the revision is that where in any city the *exclusive* control of any street, road, etc., is by law vested in any local authority other than the common council of such city, the consent of the local authority in whom such exclusive control is vested shall be obtained.

The Board deems that the word "exclusive" should be erased for the reason that there is no case known to the Board where the *exclusive* power is vested in any other body than the common council.

In the city of New York and in other cities the control of paving or general maintenance is vested in some other authority than the common council, but it is not exclusive. The word "exclusive," therefore, is embarrassing and disturbing.

52. Section four of the General Street Railroad Act at present provides that where such railroad runs through any street bounded on one side by any public park or square, the consent of one-half the owners of property on the other side of the *street or avenue*, and opposite such park or square shall also be first obtained.

The revision, in section 91, requires the consent of one-half the property owners on the opposite side of such square or park.

This is evidently an inadvertence and should be amended.

53. The General Street Railroad Act at present provides that "for the purposes of this act the value of the property so bounded shall be ascertained from the assessment-roll of the city or town \* \* \* confirmed last before the local authorities shall have given their consent.

In the revision it is provided that it shall be determined by the *last* completed assessment-roll of the city.

This leaves it somewhat indefinite, for in the course of legal proceedings a new assessment-roll may have been made out subsequent to obtaining the consents upon which proceedings are based. Such a state of facts might lead to confusion.

The Board deems that the assessment-roll ought to be definitely fixed as in the act at present.

54. Section eight of the act at present provides that where a corporation shall have extended its track subsequent to the passage of said chapter (*i. e.*, chapter 252 of the Laws of 1884), it shall pay the percentages provided for by the act, *i. e.*, three and five per cent "only upon such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension and branches shall bear to the entire length of its track."

The revision in section 95 makes the same provision.

It is susceptible of the construction, however, that although a corporation may now be obliged to pay the three and five per cent upon its whole gross receipts yet, if it makes an extension, however small, it shall only be obliged to pay these percentages on the extension.

The reason that this effect is produced by re-enacting the clause now, and was not produced in the original act, is that previous to the passage of the original act no such percentages had to be paid and it would have been unjust in the case of an extension to have compelled the payment upon the whole gross receipts. The conditions are very much altered, however, as explained.

The revision should be amended by inserting the words "provided that nothing herein contained shall exempt a railroad from paying any percentage of its gross receipts heretofore required or provided for under the provisions of chapter 252 of the Laws of 1884."

55. Section nine of the General Street Railroad Act at present provides that "Every such corporation incorporated under or constructing \* \* \* under the provisions of this act shall also, whenever and as required by the local authorities and under the supervision of the proper local authorities, have and keep in permanent repair the portion of every street and avenue between its tracks, the rails of its tracks and a space two feet in width outside," etc.

This provision, it will be seen, applies only to corporations incorporated or extending under the provisions of the act.

The corresponding section of the revision, viz., section 98, provides that "every such corporation, so long as it shall continue to use any of its tracks," etc., shall be subject to the same provisions.

If the word "such" applies only to corporations organized under the revision, it would exempt all those organized heretofore under the act as it is. If, however, the word "such" applies to all street surface railroads (as it would seem to from the phraseology in section 90), it would bring under the provision of section 98 a great many railroads that have not been thus brought under before.

It would seem to be the safer course to insert in section 98 of the revision the words "every corporation incorporated under or constructing or extending or operating a railroad constructed or extended under the provisions of this act, or of chapter 252 of the Laws of 1884," and a proviso at the end of the section that "Nothing contained in this section shall be construed to exempt any railroad from any obligation as to paving heretofore imposed by law." The latter proviso being necessary to prevent exempting by implication any railroad obliged to pave, etc., under the provisions of acts other than chapter 252 Laws of 1884, or the revision. The word "pave" should be substituted for the word "have."

56. Section 13 of the present act provides that no company incorporated under the act shall charge any passenger more than five cents for one continuous ride from any point on its road or any road or line or branch operated by it to any other point thereon or on any connecting branch thereof "within the limits of any incorporated city or village."

The corresponding section in the revision, being section 101, leaves out the words, "within the limits of any incorporated city or village."

It would appear that these words should be re-inserted in the revision, for the reason that many street railroads run long distances to outlying villages where a rate of fare greater than five cents should be permitted.

57. Section 15 of the present act provides that every street surface railroad company may lease its line to any other street surface rail-

company upon such terms as may be agreed upon by the respective boards of directors, subject to approval by a vote of a majority of the stock represented at meetings of the stockholders, but no such company shall lease its railroad to another company which owns and operates a parallel line thereto in cities of over 300,000 population.

Chapter 305 of the Laws of 1885 makes provision with regard to the lease of one street surface railroad to another and for a system of transfer of passengers and for the abandonment of portions of the routes in cities of 800,000 inhabitants or more.

The corresponding provisions of the revision, in sections 103, 104 and 105 re-enact substantially the provisions of the last mentioned act and restrict the leasing powers of street surface railroads apparently to cities of 800,000 population or over, and require the consent of two-thirds of the stockholders.

The Board is of the opinion that the revision should be amended to conform to the present law so as to permit street surface railroad corporations, under proper restrictions, to lease each other anywhere.

Section 78 of the revision provides that "*any* railroad corporation may contract with any other railroad corporation for the use of their respective roads and thereafter use the same," etc.

It is possible that street railroads might be construed as coming under the provisions of the last-named section, but it would seem preferable to have the leasing provisions of street railroads separate and apart from those of steam railroads.

58. Chapter 642 of the Laws of 1886, known as the Cantor act, provides that when the franchise for building a street railroad shall be sold, the amount to be paid for the franchise "shall not release any such road from the percentages required to be paid by chapter 252 of the Laws of 1884," i. e., three per cent for the first five years and five per cent thereafter.

The corresponding provisions of the Cantor act in the revision, i. e., section 93, makes no allusion to these three and five percentages.

Inasmuch as section 95 of the revision provides that these percentages should be paid, it may be claimed that no necessity arises for further allusion.

As the matter is a doubtful one, however, the Board makes the comment upon it.

59. Chapter 642 of the Laws of 1886 (the Cantor act) provides that where a branch or extension is constructed and "if operated by separate corporations, the earnings from such joint business shall be divided upon the basis of mileage, in the proportions provided by section eight of chapter 252 of the Laws of 1884."

There appears to be no corresponding provision in the revision.

60. The latter part of section two of chapter 642 of the Laws of 1886 (the Cantor act) restricts the provisions of the act, so far as applicable to elevated railroads to those only in the city of New York. This provision does not appear in the revision.

31. Chapter 349 of the Laws of 1882 excepts Washington street, in the city of Brooklyn, from the provisions of the act permitting the use of one street surface road to run upon the tracks of another street surface road for a distance of 500 feet.

In the corresponding section of the revision, i. e., section 97, Washington street is not thus excepted.



**62.** Chapter 267 of the Laws of 1880 provides that any individual, joint stock association or corporation now or hereafter engaged in the manufacturing of railroad cars in this State, may lay down and maintain such railroad tracks, not exceeding one mile in length, as shall be necessary to connect such manufacturing establishment with the tracks of any railroad now or hereafter operated in this State, provided they shall obtain the consent of the owners of one-half in value of the property, etc., and provides "or in case the consent of such property owners can not be obtained, that of three commissioners appointed by the court."

Chapter 140 of the Laws of 1882 provides that it shall be lawful for any individual, company, association or private corporation to build and operate solely for the purpose of conducting the business of such individual, company, association or private corporation, a railroad on or across any highway, provided that consent in writing, and under seal of the owners of all lands upon which such railroad may be built abutting the highway, be first obtained, and other provisions as to the consent of the authorities having control of the highway.

It will be observed that under the last-mentioned act they can build any length of road if they get the consent of owners, but no provision is made for the consent of commissioners appointed by the Supreme Court in lieu thereof.

The corresponding provision in the revision, in section 20, provides that any individual, joint stock association or corporation engaged in any lawful business in this State may, except in any city of the State, lay down and maintain such railroad tracks, not exceeding three miles in length as shall be necessary for the transaction of its business, etc., and the section provides further that in any such case if the consent of property owners can not be obtained, a commission can be petitioned for to the court whose consent shall be taken in lieu thereof.

This provision is a very considerable extension of power to industrial corporations to lay railroad tracks for their own convenience, so far as obtaining the rights in opposition to the wishes of the abutting property owners.

**63.** Chapter 582 of the Laws of 1880, known as the Tunneling Act, provides for the construction of railroads underground.

Section one of the act provides that in case the consent of the owners of property bounded on the line of the route, or the consent of the local authorities can not be obtained, the determination of commissioners appointed by the court shall be taken in lieu thereof, both property holders and local authorities. This provision has been declared unconstitutional in the case of New York District Railway Company (107 N. Y., page 42), upon the ground that the constitution (art. 3, sec. 18) does not admit of the consent of commissioners appointed by the court to be taken in lieu of the local authorities in such a case.

In the corresponding section of the revision, viz., section 16, phraseology has been altered to conform to the decision of the court.

*Second.* While the revision was in the committee of the Legislature the word "hereafter" was inserted in the second line of the section so that the provisions of the whole act in the revision are only applicable to corporations hereafter created.

Inasmuch as chapter 582 of the Laws of 1880 is repealed, this word "hereafter" should be stricken out.

64. Chapter 468 of the Laws of 1881 provides for the formation of corporations for the purpose of acquiring, constructing and operating railroads in foreign countries.

In the revision such corporations are brought under the general laws of the State applicable to all railroad corporations. A number of additional requirements are thereby imposed and some requirements in the original act omitted, as follows:

The original act provides that any number of persons not less than 10 may organize a company. Section two of the revision requires 15.

The original act provides that the number of directors shall not be less than seven. The revision provides in subdivision 11 of section two, they shall be not less than nine.

No specific amount per mile of capital stock is required in original act. The revision requires not less than \$10,000 per mile and ten per cent paid in, for standard gauge roads.

The original act requires the approval of the Governor of articles of association. There is no such requirement in the revision.

The original act requires fifty dollars fee to be paid on filing articles of association. There is no such provision in the revision.

Section 11 of the original act provides that a company may reduce or increase its stock with the consent in writing of two-thirds of the stockholders. The corresponding section of the revision, being section 46, provides that this can only be done with the additional approval of the Board of Railroad Commissioners.

The law at present provides that the by-laws may authorize less than a majority of the directors to be a quorum.

The revision, *i. e.*, section 17, General Corporation Act, requires that a majority of such body shall be a quorum, unless otherwise provided by law.

65. Chapter 361 of the Laws of 1883 provides that "it shall be lawful for any corporation organized under the laws of this State, and transacting business in it, and other States and foreign countries, except savings' banks, to acquire, hold and convey in such States or foreign countries, with the consent thereof, such real estate as shall be requisite for such corporation in the convenient transaction of its business, and to invest its funds in the stocks, bonds and securities of other corporations owning lands situated in this State or such States, provided that *loans* shall not be made on any stocks upon which dividends shall not have been declared continuously for three years immediately before such loans are made, and provided further, that such stock shall be continuously of a market value, twenty per cent greater than the amount loaned or continued thereon."

The corresponding provision in the revision is found in the latter part of section 40 of the Stock Corporation Law, as follows, "but any domestic corporation transacting business in this State and also in other States or foreign countries may invest its funds in the stocks, bonds and securities of other corporations owning lands in this State or such States, if dividends have been paid on such stocks continuously for three years immediately before such *loans* are made, or if the interest on such bonds and securities is not in default, and such

stocks, bonds or securities shall be continuously of a market value twenty per cent greater than the amount loaned or continued thereon."

The language of the revision is confused or contradictory in that it states "may invest its funds in the stocks, bonds or securities \* \* \* if dividends have been paid on such stocks continuously for three years immediately before such loans are made." The word "investments" should be substituted for "loans."

66. Section 510, Laws of 1880, provides the method of voting by stock and bondholders of railroad corporations at meetings thereof.

The corresponding section of the revision, i. e., section 54, Stock Corporation Law, provides that no proxy shall be valid after the expiration of eleven months from its date, unless the stockholders shall have specified therein the length of time it shall be in force, which shall be for some limited period.

This is a new provision and very materially modifies the customs of business.

*Second.* The old act provides that any person violating any of the provisions of this act, other than swearing falsely, shall be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment and fine, not exceeding one year and \$5,000.

These penalties are omitted from the revision.

67. Chapter 223 of the Laws of 1884 provides that "no officer or director of any railroad corporation shall sell or agree to sell or be directly or indirectly interested in the sale or agreement to sell any shares of the stock of the corporation of which he is such officer or director, unless at the time of the sale or agreement to sell he is the actual owner of such shares."

Section two of the bill provides for imprisonment of not less than six months and fine not exceeding \$5,000 for each violation.

This entire act is repealed and no provision made in place thereof in the revision.

The act is a most important one to prevent the scandals arising in Wall street from unscrupulous directors and officers of railroad companies selling stock of their own company "short," as the phrase is termed, under which circumstances they derive profit from the deterioration or destruction of the corporations of which they are the trustees.

The revisers note that it is proposed to provide for it in the Penal Code.

If it be repealed its re-enactment ought to be a question beyond any doubt whatever.

It appears to the Board that it would have been better to have submitted the substitute therefor simultaneously with the repeal of the bill itself. The same criticism can be made on the repeal of many other of the penal provisions of the General Railroad Act and acts supplementary thereto, substitutes for which have not yet been put upon the statute books.

68. Chapter 317 of the Laws of 1881 and chapter 498 of the Laws of 1885 make provision for the change of time and place for holding election of directors, when such change is approved by a majority of the stockholders either in person or by proxy.

There appears to be no corresponding provision in the revision except that in article 20 of the Stock Corporation Law, and subdivision five of section eight of the General Corporation Law.

The provisions in the revision seem to leave the control of the matter entirely within the board of direction.

69. Chapter 415 of the Laws of 1879 provides that it shall not be lawful for any railroad company operating its road wholly or partly in the county of Kings to stop its cars, horses or locomotives on any railroad crossing of any other railroad company intersecting or crossing the same on the surface, for the purpose of receiving or delivering passengers or freight or any other purpose whatever.

The corresponding provision in the revision, being the last clause of section 36, makes this provision general throughout the State. There can be no objection to such a modification, however.

70. Chapter 439 of the Laws of 1884, known as the "Safety Act," provides for certain measures of safety. The act consists of eight sections. Different penalties are imposed for violation of the different sections at the end of each section.

The corresponding provisions of the revision contained in sections 49, 33 and 36 materially alter the penalties, making them much heavier in nearly all cases.

71. Chapter 524 of the Laws of 1889 provides that all persons and corporations operating any line of railroad by steam power in this State, shall, after the first of November, 1892, equip all of its own engines and freight cars with automatic self-couplers.

There is no corresponding provision in the revision. That in section 49 applies solely to *new* freight cars.

The act, however, does not appear to be repealed.

72. Attention is drawn to the fact that section 50 of the revision provides that the Board of Railroad Commissioners may, on the application of any railroad corporation, authorize it to use any other safeguard or device, approved by the Board, in place of any safeguard or device required by 'this article, which shall thereafter be used in lieu thereof,' and the same penalties for neglect or refusal to use the same, shall be incurred and imposed as for the failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used."

While the Board of Railroad Commissioners has considerable discretionary power with regard to such devices, under the present law, this provision would materially extend it.

73. Chapter 292 of the Laws of 1882 provides that no oil or burning fluid, which will ignite at a temperature below 300 degrees Fahrenheit, shall be burned in any lamp, vessel or other stationary fixture of any kind, or carried as freight in any passenger or baggage car moved by steam power in this State, etc. Exceptions as regards the transportation of coal oil, petroleum and its products, is made when the same is securely packed in metallic packages, and provision is made for its carriage, etc.

No corresponding section appears in the revision, but the law is not repealed however.

74. Chapter 300 of the Laws of 1837, is an act relative to unclaimed runs and baggage, and provides for sale, etc.

The substantial provisions thereof are to be found in section 46 of the revision, with the exception of the provision that "in case the name and residence of the owner shall be ascertained, it shall be the duty of such person (*i. e.* corporation) who shall have any such pro-

perty as above specified to immediately notify the owner thereof by mail."

No corresponding provision is found in the revision. The act, however, is not repealed.

**75.** Chapters 346 of the Laws of 1863 and 223 of the Laws of 1880 provide for the appointment by the Governor of conductors and brakemen and others as special policemen.

The corresponding provisions in the revision are to be found in section 58 thereof.

Sections three and four of chapter 223 of the Laws of 1880 provide a penalty of \$250 to be imposed upon any conductor or brakeman refusing or neglecting to perform the duties imposed upon him by the act, and that such fine shall be, when collected, placed in the treasury of the county for the use of the poor.

Section five of the same act provides that it shall be the duty of every superintendent or manager of every steam railroad to post a copy of the law in some conspicuous place.

There appears to be no corresponding provisions to these sections three, four and five in the revision.

**76.** Sections 11, 12 and 13 of chapter 401 of the Laws of 1887, provide for the collection of milk-cans by railroad companies.

No corresponding provision appears in the revision. The act, however, is not repealed.

**77.** Chapter 585 of the Laws of 1880 prohibits any minor child, not being a passenger, riding upon the platforms of cars.

There appears to be no corresponding provision in the revision.

The law is not repealed, however.

**78.** Chapter 399 of the Laws of 1881, provides that trains on elevated railroads shall come to a full stop, before egress or ingress of passengers, and that gates shall be constructed on the platforms of such cars.

Section three of the act provides that "any agent, conductor, engineer," etc., who shall signal such train to start, or who shall obstruct the ingress of the passengers, shall upon conviction be liable to pay a fine of not less than twenty-five or more than \$100, or be imprisoned for not less than ten or more than ninety days.

In the corresponding provisions of the revisions to be found in sections 138-141, the penalties in regard to conductors, agents, etc., are omitted.

It would seem that they should be restored.

Section four of the act provides, "nothing in this act shall be construed" to relieve the elevated railroad companies from any liability under which they might now be held under existing laws for damages to persons or property.

In the corresponding provision of the revision, i. e., section 140, the word "persons" is left out.

It would appear that it should also be restored.

#### NOTES.

The following notes call attention to substantially new provision of law so far as applicable to railroad corporations, not hereinbefore commented upon.

*Note 1.* In the seventy-second line of section six of the revision, a new feature is added as follows:

"No such corporation shall institute any proceedings for the condemnation of real property in any county until after the expiration of fifteen days from the service by it of the notice required by this section, nor until after the final determination of all applications that may be made for a change of route in such county."

*Note 2.* Section 13 of the revision provides:

*Every* domestic railroad corporation may, by a vote of two-thirds of all its directors, alter or change the route or any part of the route of its road or termini," etc.

This provision existed in the law heretofore with reference to steam railroads and street surface railroads. It did not exist, however, with regard to railroads organized under the Rapid Transit Act. It becomes a new feature with regard to them and materially modifies the law, inasmuch as at present any modification of the route of railroads organized under the Rapid Transit Act must be made in conformity with section 39 of that act by new commissioners appointed by the mayor. Attention is drawn to the fact that the provisions of section 39 of the Rapid Transit Act are incorporated in section 136 of the revision. Consequently, there is a conflict between section 136 and section 13 of the revision. It would apparently be proper to amend section 13 to bring it in harmony with the requirements of the law, as set forth.

*Note 3.* Subdivision 10 of section 28 of the General Railroad Act provides how money may be borrowed.

In the corresponding provision of the Stock Corporation Law, section two, and at the close of section four, a proviso is added, that the sum so borrowed shall not exceed two-thirds of the value of the property of the corporation.

*Note 4.* By a clerical error, chapter 219 of the Laws of 1839 is repealed. It should be chapter 218 of the Laws of 1839.

By the same error, chapter 566 of the Laws of 1889, is repealed. It should be chapter 564 of the Laws of 1889.

*Note 5.* The Board observes that the revisers have stricken out almost all the penal provisions from the particular section prohibiting the act for which the penalty is imposed, with the intention of amending the Penal Code, by adding thereto such penalties.

Where, however, the violation of the provision is not made a misdemeanor or a crime, but simply renders the person liable to a pecuniary penalty or a suit for damages, such penalty is retained in the section.

# COMPLAINTS

OF

CITIES, TOWNS, ASSOCIATIONS, INDIVIDUALS, ETC.

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## I.

RESIDENTS OF VILLAGE OF NORWICH v. THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY.

October 1, 1889.

This was a petition numerously signed, alleging that the streets of the village, especially East Main and Front streets, were and often had been blocked by trains, locomotives and the cars of the Delaware, Lackawanna and Western Railroad Company, and praying the intervention of the Board to secure remedy therefrom.

When a copy of the petition was transmitted to the company, its reply was that at a conference with the village authorities a proposition had been submitted, which the company thought would be satisfactory to the village. Subsequently the village authorities asked that an extension of thirty days be given the company in which to answer. At the expiration of this time, when the village authorities were appealed to, they replied that if matters at the crossing were kept in the condition they were in then they did not care to press the complaint. Some weeks subsequently, the counsel of the village authorities wrote asking the methods to be pursued to bring the matter before the Board again. The letter was answered but nothing further has been heard from the matter.

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## II.

TITUS, WELLS & WILLETS v. THE WEST SHORE RAILROAD COMPANY.

October 12, 1889.

The complainants alleged that they had "received a number of telegrams and letters from their (our) shippers complaining of their inability to ship unless they would send to either of the firms mentioned in the order and their (our) business was at a standstill."

Accompanying the complaint was the following dispatch:

*To Freight Agents:*

You may ship hay to F. Williams & Co., and Frazee & Co., Weehawken or Thirty-fifth street, New York, in West Shore box cars or hay cars, I do not ship to any other parties at Weehawken or New York, and do not allow any hay to be loaded for Brooklyn until further orders.

B. D. McCOY,  
Superintendent

The reply of the company was that it had at "the Weehawken terminal about 200 carloads of hay in cars which it was unable to get unloaded and had large amounts of freight at Buffalo which was in danger of being delayed for want of cars. Orders were, therefore, given to allow no more cars to be furnished for loading hay for New York and Brooklyn until the cars then on hand for those points were unloaded. A modification of these orders was made in favor of those parties unloading promptly—the parties named in the order. The relief sought being obtained, the order on September twenty-eighth was rescinded. The date of the complaint was September thirtieth. On October twelfth the complainants withdrew the complaint.

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## III.

## RESIDENTS OF THE TOWN OF ONTARIO V. THE ROME, WATERTOWN AND OGDENSBURG RAILROAD COMPANY.

October 14, 1889.

The allegations of the complaint were that the market for the iron ore mined at Ontario was limited by the excessive rates charged by the Rome, Watertown and Ogdensburg Railroad Company for carrying the same over its line of railway to connecting points; that if it were to carry the ore at 6 $\frac{1}{10}$  mills per ton per mile, as it charges other shippers of iron ore on its line the market for Ontario ore would be greatly enlarged.

The company denied that the rates charged were excessive, or more than a fair compensation for the "expense, labor and care incurred in the transportation of the ore." It further denied that they were relatively in excess of rates charged other shippers on its line for the same kind of transportation, but that the cost of taking the iron ore mined in Ontario and placing it upon the main line is fully three times as great as at other points where ore is shipped, because it is obliged to maintain several miles of track and sidings to and at the mines.

This answer of the company was transmitted on the 14th of October, 1889, to the complainants with the request for a reply within ten days. As no answer has yet been received, the Board presumes the complaint has been abandoned.

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## IV.

## W. HALL V. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

October 30, 1889.

This was a complaint against the dangerous condition of a coal socket, erected by the New York, Lake Erie and Western Railroad Company adjacent to the lands of the complainant, alleging also that it obstructed the highway. It further set forth that by reason of its



obstructing the view, several serious accidents had occurred and that it had been abandoned by the company as unsafe to use, but was permitted to remain a menace to life and limb.

The company replied that upon the receipt of the communication of the Board an investigation was ordered and instructions subsequently given to tear down the portions of the coal pockets complained of and to put the balance in proper shape and that the work was then in progress.

The complainant subsequently informed the Board that the work had been done entirely to his satisfaction.

## V.

EMPLOYEES OF THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY  
v. THE HIGHWAY COMMISSIONERS OF ORANGETOWN, ROCKLAND COUNTY, N. Y.

November 9, 1889.

The complaint set forth that the company employing the complainants were substituting a new bridge for an old one, which was so low as to be dangerous and that the highway commissioners had interfered and prevented the new bridge from being twenty feet in the clear as it should be; desiring it to be only eighteen and a half in the clear.

The highway commissioners instead of replying directly, set up a complaint against the company of having suspended work on the bridge and insisting that if the company were to build the bridge at twenty feet, the approaches thereto would put some of the houses on the line a foot below the grade, and still asserting that nineteen feet was enough in the clear.

The company replied that work was suspended because the highway commissioners had interfered in the company's endeavor to comply with the general recommendations of the Board that all bridges should be twenty feet.

The Board advised the highway commissioners that in the judgment of the Board the bridge should be twenty feet in the clear and informed the company that it had so advised the commissioners.

## VI.

IN THE MATTER OF THE COMPLAINT OF GOLDSMITH & TUTHILL v. THE LONG ISLAND RAILROAD COMPANY.

November 18, 1889.

Messrs. Goldsmith & Tuthill, of Cutchogue, N. Y., complained the 5th of September, 1889, that the Long Island Railroad Company charges more for freight carried by them from Long Island City Cutchogue than from Long Island City to Southold, which last station is five miles further east and has to be reached by pass through Cutchogue.

They submitted a statement giving rates on meal, oats, corn, sugar and flour from Long Island City to each place, and which showed an average of about twenty-five per cent higher rates for the shorter haul.

They also further complained that "Eggs shipped here Tuesday at 9 A. M., are not delivered at Flushing until Thursday. They arrive at Long Island City the day shipped but are held over before transferring until the next day. In summer the heat of the cars are such that they arrive in bad condition, and we are obliged to send by express and pay forty cents a case instead of nineteen by freight."

The complaint was duly forwarded to the railroad company, and under date of September nineteenth, J. R. Maxwell, Vice-President, replied as follows:

"Answering the complaint of Messrs. Goldsmith & Tuthill, I have to state:

"I. The company denies that it discriminates against either the complainants or the business of Cutchogue. It admits that during the season of open navigation it makes special rates to points on the line where steamboats compete for the business but solely to meet the rates made by the boats. That such rates are unremunerative, if applied to the whole business of the company, and are not made voluntarily, nor for the purpose of discriminating in favor of the points to which such special rates are made nor against other points. And the company respectfully submits to the Board that it should not be compelled to withdraw from such competitive business, nor to reduce the rates to other points below the reasonable and fair rates which now prevail.

"II. The company admits that there is an apparent delay at Long Island City in the transportation of traffic from points on the main line to points on the North Shore Branch, where shipments are made in less than car lots, but that the same is reasonable and necessary. The company is obliged to unload such packages and reload the same into other cars, and it is impossible to operate the freight trains on these several lines in close connection, and the company gives to such traffic all reasonable dispatch that the facilities and nature of the business admits of.

"III. The company has no other cars for the transportation of eggs and similar merchandise except the ordinary box freight cars, and that the complainants are supplied with the same facilities as are supplied to other shippers at all points on its lines."

This answer was transmitted to the complainants, Messrs. Goldsmith & Tuthill, who, on the fifth of October, replied as follows:

"The Long Island Railroad Company admit our complaint and of course it lies with your honorable Board to say whether they have the legal right to discriminate for the purpose of competition as set forth in their answer.

"They admit that this discrimination is exercised during the season of open navigation, but do not infer from that admission that it is not exercised when the steamboat is not running, for the rate at Southold was the same during the entire last year.

"The railroad company admit that there is an apparent delay at Long Island City. The delay is not only apparent but real. The freight train is due at Long Island City, 7.10 P. M., the Flushing freight starts the next morning, and the idea that not to exceed a truckload of perishable freight can not be transported a distance not exceeding one-eighth of a mile during that interval, requires a large stretch of imagination to call reasonable dispatch."

There are two points involved.

*First*, the question of the right of the Long Island Railroad Company to discriminate for the purpose of competition as set forth in answer.

*Second*, the alleged delay in transfer at Long Island City.

The question of charging more for a shorter than for a longer haul is one which has received much attention from the Legislature and this Board. It is also exhaustively treated by the Interstate Commerce Commission in the case of the Louisville and Nashville Railroad.

In the latter case that Commission state "that the existence of actual competition which is the controlling force in respect to traffic important in amount may make out the dissimilar circumstances and conditions entitling the carrier to charge less for the longer than for the shorter haul over the same line in the same direction, the shorter being included in the longer, in the following cases:

*First.* Where the competition is with carriers by water which are not subject to the provisions of this statute \* \* \*."

The Board is of the opinion that during the season of navigation the competition by water is of such a character as would justify the railroad company in charging more to Cutchogue than to Southold. It deems, however, that during the season of closed navigation this discrimination should cease.

The company admits as to the second item of complaint, that there is an apparent delay at Long Island City in transferring traffic where shipments are made in less than carload lots, but that the same is reasonable and necessary.

The Board is of the opinion that perishable freight arriving in the evening at 7.10, as alleged by the complainants, should be transferred to the outgoing morning trains.

#### *Conclusions.*

The Board recommends that the road maintain freight rates so as to prevent a higher charge for a shorter than for a longer haul during the period when competition by navigation is suspended.

*Second.* That greater diligence be observed in transferring freight at Long Island City.

By the Board.

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## VII.

### STEBBINS & UTTER v. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

November 20, 1889.

The complaint set forth that the cattle-guards on the farm crossings, a pit on each side of the farm roadway, were filled some years ago with the understanding that the guards would be replaced with wooden grates, but that up to the time of making the complaint, September 2, 1889, nothing had been done in the way of placing such wooden grates.

The company replied that upon the receipt of a copy of the complaint, instructions were given to put the fences and guards in proper condition, which was immediately done.

## VIII.

## HIGHWAY COMMISSIONERS, TOWN OF PHILLIPSTOWN v. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

November 27, 1889.

This was a complaint that the crossing at the south end of Break-neck tunnel was and had been for a long time in a dangerous condition, because of the neglect of the New York Central and Hudson River Railroad Company to properly guard the entrance to the tunnel by placing there a flagman.

The company replied that several years previously, a device had been operated from the north end of the tunnel, by which the approach of trains from the north was signaled by a sign dropped over the highway and was considered satisfactory by the highway commissioners then. During the summer of 1889, the road had been loading broken stone at that place for ballast and as a consequence a good deal of switching had been done across the highway. Upon complaint being made to the company by the highway commissioners, the company promised to switch from the lower end below the highway.

The reply of the commissioners was that the device used as a signal warning was defective; that it did not work accurately and that switching from the lower end as proposed by Mr. Toucey did not serve the purpose.

To this the company replied that all work would cease at the point complained of and with it the complaints.

This has been the result.

## IX.

## IN THE MATTER OF THE COMPLAINT OF T. E. CROSS v. THE DELAWARE AND HUDSON CANAL COMPANY.

December 3, 1889.

T. E. Cross of Vaughn's, N. Y., complained, under date of October 29, 1889, that the cattle-guards at the highway crossing, known as "Wray's Crossing," north of Comstock's Station, on the Rensselaer and Saratoga division of the Delaware and Hudson Canal Company, were defective. In his complaint he stated that "The highway crosses the track at so acute an angle that it is as easy for an animal to go on the railroad track as on the highway, and as there were no effective guards there, it is a particularly dangerous place for stock. I enter this complaint to prevent the recurrence of an accident I had some two weeks ago, by which I lost a valuable cow and nearly lost two more, besides narrowly escaping without wrecking a passenger train."

The complaint was forwarded to the company who answered as follows:

"The cattle guards adopted and in use by said company are the latest invention and the most improved standard cattle-guard in general use, by

all new roads, and are rapidly being introduced among the old roads of the State wherever new cattle-guards are required.

"This system, known as the 'slat guard' system, has many advantages over the old sunken cattle-guard."

"It has been found, by actual experiment, to turn cattle which have frequently escaped over the old guard."

"Our statistics show that the number of cattle killed since the introduction of the new system has been very considerably diminished."

"It enhances the safety of trains as the large number of openings in the track, incident to the use of the old system, were a constant source of danger and accident, as much so, in fact, as much longer openings. It has been our policy, and we think the policy of most of the roads in the State, to do away with as many of these openings as possible. The spaces between fences at cattle-guards are only sufficient to admit of the passage of a snow plow, which is the widest vehicle to pass over the track."

"No cattle-guard has yet been devised that will prove an absolute protection against the intrusion of cattle. When frightened or excited, they will leap or escape over any cattle-guard; but experience has shown that the new device is more efficacious than the old."

One of the Commissioners made a personal inspection of the crossing on the 23d of November, 1889, and found that new patent iron cattle-guards, with close fence sidings, had been placed since the accident. The guards are apparently effective ones, and the fences on the side properly constructed.

The Board, however, recommends that the planking at this crossing be lengthened fully one-half, and that the bushes and shrubbery be cut on the west side of the railroad and south side of the highway, thus giving a clearer view of an approaching train from the south.

By the Board:

## X.

### W. J. & G. BILLS v. THE WEST SHORE RAILROAD COMPANY.

December 3, 1889.

The complainants alleged that at Macedon the agent of the company refused to receipt for goods delivered for shipment at the station, but not yet loaded into cars. The superintendent of the company, when complaint was made to him, upheld the action of the agent saying he had "in mind an instance where a shipper, whose name he would not give, induced the agent to give a bill of lading before the freight was all in the car and on that bill he drew for the amount and the railroad company never receiving the freight, the agent had to stand the difference."

The complainants replied that they did not ask for a receipt before the freight was delivered, but when it was actually in the possession of the company at the station.

The Board therefore asked the company why the request of complainants as stated above should not be acceded to. The general manager replied that no reason existed why a receipt should not be given under such circumstances, and orders were given according

## XI.

W. J. BROWN v. THE DELAWARE AND HUDSON CANAL COMPANY.

December 30, 1889.

The complaint was that one of the farm crossings on his farm three miles south of Whitehall was almost impassable, and though he had frequently called the attention of the company to the fact no remedy was given.

The answer of the company was that the cause of the complaint was that the grade was too steep and that the work of altering it in accordance with the desires of the complainant was then in progress. The fact was communicated to the complainant with a request that he would inform the Board whether or not the work had been satisfactorily done. The complainant has not replied.

## XII.

IN THE MATTER OF THE COMPLAINT OF WILLIAM SAVAGE BURNS v. THE WAGNER PALACE CAR COMPANY.

December 30, 1889.

This complaint dated August 20, 1889, alleges that the complainant entered the sleeping car "Elberon" at Norwood, St. Lawrence county, on the Rome, Watertown and Ogdensburg railroad, and asked for a berth to Windsor Beach in Monroe county; the "Elberon" being a sleeping car belonging to the Wagner Palace Car Company and running upon the Rome, Watertown and Ogdensburg railroad.

That a berth was prepared and a charge of two dollars asked in payment; that the claimant disputed the charge and claimed that under chapter 125 of the Laws of 1858, the highest charge that could be exacted was eighty cents; that the conductor refused to accept less than two dollars, which he stated was the rate charged by the company in whose employ he was; that the complainant desiring to make a test case paid under protest the sum demanded.

The complaint was transmitted to the Wagner Palace Car Company. A reply was received requesting an extension of time in which to answer, upon the ground of the absence of the counsel of the company. A sufficient and reasonable time having elapsed, the Board again called for an answer, which was finally received, dated November the sixteenth.

The answer admits that two dollars was the established fare for a berth as provided in the car "Elberon" and in other cars of the Wagner Palace Car Company from Norwood to Windsor Beach; it then goes to state that, "The Wagner Palace Car Company respectfully submits that such charge is not in violation of the provisions of chapter 5 of the Laws of 1858, the berth and sleeping accommodations furnished for such charge being entirely different from and largely in excess of the accommodations considered by the Legislature in the passage of the said act, chapter 125 of the Laws of 1858, and provided for therein."

The act referred to (*i. e.* chapter 125 of the Laws of 1858) provides as follows:

"Section 1. Any patentee of a sleeping car, or his legal representative, may place his car upon any railroad of this state with the assent of the company owning such road. Such patentee or his legal representative, may charge for the use of said car, in all cases, to each passenger occupying the same, forty cents, which sum shall entitle such passenger to the use of a berth for one hundred miles; and the said patentee, or his legal representative, may charge at and after the rate of three mills for every additional mile, but in no case shall the charge exceed eighty cents."

Inasmuch as this act had been in existence since 1858, and that the traveling public without complaint, so far as the Board knows, had paid the fares charged by the sleeping car companies running throughout the State, it appeared to be a virtual acquiescence upon the part of the public in the reasonableness of the charges. On the other hand, however, it appeared to the Board that the charges exacted by the company were a violation of the law.

The matter was submitted by the Board to the Attorney-General, and he also finds that the charges are a violation of the law, although he also comments upon the fact that these charges have been acquiesced in without complaint by the public for many years.

Inasmuch, therefore, as the law specifically provides "that in no case shall the charge exceed eighty cents," the Board deems that it is its duty under section 5 of chapter 353 of the Laws of 1882, to give notice to the Wagner Palace Car company that it is violating the law in making these charges, and that if it continues to do so it does so at its peril.

So far as Mr. Burns is concerned, the Board is of the opinion that he has an adequate remedy at law to recover the excess charged him, should the Wagner Palace Car Company decline to refund the same.

By the Board.

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### XIII.

#### RESIDENTS OF BATH JUNCTION *v.* THE BROOKLYN, BATH AND WEST END RAILROAD COMPANY.

January 4, 1890.

This was a petition asking the Board to use its authority to compel the company to sell commutation tickets whenever applied for and alleging that the company refused to sell its fifty trip tickets except on the first day of the month, which was likely to expire on any other day of the month.

The company in reply set up the fact that there was no statutory regulation governing the issue of commutation tickets and ther explained that its practice was to sell tickets any time during the month and fixing the date of expiration on the first of a given month, and that this was done for the reason that dishonest persons had been discovered changing the date when the ticket issued during the month was dated the day of issue—thus a ticket dated the twelfth

would be changed by turning the one into a two, making it twenty-second. All expiring on the first of the month the conductor could not be deceived.

The complainants replying insisted that when the petition was circulated the charge made was true, but as a modification had been made by the company, which was satisfactory, the complaint was withdrawn.

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#### XIV.

W. R. WILBUR v. THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY.

January 10, 1890.

The complaint was of a dangerous crossing at Groveland, on the Delaware, Lackawanna and Western Railroad, where four highways meet and cross, and where the view was obstructed. Further it was alleged that the crossing was forty rods from the bottom of what is known as Groveland hill, a heavy grade of fourteen miles approached by the road by a level of seven miles over which the trains run at a high rate of speed to make time up the hill; that, when descending, steam was shut off and the brakes raised; further, and finally, it was alleged that all freight trains were shoved up the hill by a locomotive which ran back again at a swift rate of speed. A flagman at the crossing was asked for.

The reply of the company was that gates for the protection of that crossing had been purchased some time previous to the making of the complaint, but owing to the complicated nature of the situation, changes in construction were necessary, which had delayed the work, but within one week of the time of writing the gates would be erected and in use.

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#### XV.

HOMER COOK, HIGHWAY COMMISSIONER, PAVILION v. THE BUFFALO, ROCHESTER AND PITTSBURG RAILROAD COMPANY.

January 24, 1890.

The complaint alleged that where the tracks of the company crossed the State road, at Pavilion Centre, the grade of the road was seven or eight feet above the former grade of the highway, and that the company had failed to observe its statutory obligations of restoring said highway to its former state, or to such a state as not necessarily to impair its usefulness. That this condition of affairs had been frequently called to the attention of the railroad officials, but, though often promises to put the highway into proper condition had been made, nothing had been done.



The company for answer denied that it had neglected any statutory obligation, but upon the contrary had put the highway into a proper condition.

A copy of this reply was forwarded to the complainants with the request that a reply be made within ten days, but as none has been received, the Board presumes the complaint to be abandoned.

## XVI.

### MRS. E. DE ROODE RICE v. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

January 28, 1890.

The complaint alleged that the complainant was charged nine dollars and twenty-five cents for a ticket from New York to Buffalo a distance of 440 miles, which at the rate of two cents a mile should have been eight dollars and eighty cents.

The company replied that the sum charged was less than the amount it was permitted to charge by law and that the sum of nine dollars and twenty-five cents was made up as follows:

	Rate charged.	Rate as permitted by statute to charge at three cents
New York to East Albany 150 miles.....	\$3 00	\$4 50
Albany bridge.....	10	10
Albany to Buffalo 296.46 miles.....	6 15	8 91
	<u>\$9 25</u>	<u>\$13 51</u>

The company further alleged that under the statutes they were authorized to charge three cents a mile or fraction thereof for through passengers which they did not do, and that the statutory provision of two cents a mile applied only to way passengers on that part of the line between Albany and Buffalo.

This answer was transmitted to the complainant, but no reply has been received from her.

## XVII.

### J. L. PACKER v. THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY.

February 13, 1890.

The complainant alleged, upon the assurance of the agent of the company at Corning, that a shipment he desired to make would be sent as cheaply and three or four hours more quickly than by the Erie road, and he shipped and prepaid the freight on a carload sheep, billed for Sixtieth street, New York city. But instead of going to the point to which they were billed, the car was left at Hoboken and the expense of putting them to their destination was taken out

the stock by the consignees, imposing expense on the shipper of fifty or sixty dollars, which the complainant demanded should be refunded by the company.

The company replied that it was endeavoring to reach a satisfactory settlement with Mr. Packer, and that the trouble was caused by the agent at Corning accepting a shipment to Sixtieth street stock yards, a point at which the company could not deliver because of the refusal of the stock yards to receive shipments from the Delaware, Lackawanna and Western Railroad Company.

Subsequently the Board was informed by the complainant that a satisfactory settlement had been made.

## XVIII.

C. W. LARSON v. THE FITCHBURG RAILROAD COMPANY.

February 14, 1890.

The complaint was that the Fitchburg Railroad Company had failed to erect a suitable station building at Eagle Bridge to take the place of the one burned sometime previously.

After a brief delay, the president replied that the construction of a suitable passenger station would be commenced early in the season. The Board has since been informed that such work is now in progress.

## XIX.

IN THE MATTER OF THE COMPLAINT OF VROMAN & WOOD OF FEURA BUSH,  
ALBANY COUNTY v. THE WEST SHORE RAILROAD.

February 18, 1890.

This complaint, dated December 21, 1889, alleges that the complainants are forwarding commission merchants at Feura Bush, Albany county, on the line of the West Shore railroad; that they have a large warehouse filled to its utmost capacity with hay, etc., awaiting shipment; that they had not had a car to load since the 6th of November, 1889; that they had asked for cars every day but the railroad company refused to give them any; that other parties came to the station and ordered cars from day to day which would be given to them to load; that the failure to furnish cars was a source of detriment to their business and they prayed the Board to give what redress it could.

Upon this complaint being forwarded to the railroad company, a reply was received from J. D. Layng, general manager, dated January the 9th, 1890, in which he says that the railroad company had on hand on November the sixth, 348 cars, but that it had declined to furnish cars for hay for the reason that it was unjust to shippers of other produce who needed the cars too badly to have them furnished for hay, as much as the consignees receiving hay at the New York terminal did not unload them promptly.

The answer of the road was transmitted to the complainants, and in rejoinder thereto, a letter was received January the twenty-fifth, stating that shortly after making their complaint the complainants received cars to load their goods but that the *good fortune* of getting cars suddenly stopped, and that they had not had a car since January the seventeenth; that they began purchasing goods January the first, expecting to get cars; that they have been compelled to hold back the delivery of goods, much to the annoyance of their customers and to the detriment of themselves.

That the rates had been raised from sixteen dollars to eighteen dollars per car from Feura Bush to Brooklyn; that in contradiction of Mr. Layng's statement that their cars were not unloaded promptly, they state that nine out of ten of their cars were consigned directly to Palmer's dock, Brooklyn, where the hay is sold for immediate delivery, and is promptly unloaded; that as soon as the firm in Brooklyn (Vroman & Co.) receives notice of arrival they are ready to receive them, but that they are sometimes compelled to wait a number of days before they are received at Palmer's dock.

That a short time ago the agent at Feura Bush informed the complainants that he, the agent, had received notice not to permit the complainants to load any more cars for Brooklyn or New York, unless consigned to Frazee & Co. or F. Williams & Co., thus compelling the complainants to ship according to the dictation of the railroad company; that upon receipt of this notice they immediately made arrangements to ship their goods from Feura Bush to Albany and then by boat to Brooklyn; that when they had shipped a few cars in that way they received suddenly another notice informing them that the railroad company would not ship any more cars to Albany, thus shutting them out from all markets.

The complainants go on in their letter to state that they are averse to making captious complaints against the railroad company, but that their treatment has been such as to preclude their doing business.

This letter of January twenty-fifth was sent to the railroad company, with a notice that inasmuch as issues of fact had been thus joined, a hearing would be set down before the Board, at its office in Albany, on February the eleventh, at 10 A. M.

On the latter date the complainant appeared, but no appearance was made on behalf of the railroad company. A letter, however, was received from J. D. Layng, dated February the eighth, in which he says that a statement inclosed therein, showing cars shipped by Vroman & Wood, from January the 1st to February the 7th, 1890, was the best answer he could make to the communication. Mr. Layng states that every one of the cars shipped by Vroman & Wood reached Weehawken within twenty-four hours after shipment from Feura Bush and laid there for days before being ordered to Williamsburg.

He then states, "For the information of the Board, I shall state that these cars are sent to Williamsburg on the order of the agent at that point, such order being sent as soon as the cars are asked for. I can only repeat what I said to the Board in my former communication on this subject, that we stand ready at any time, to the limit of our ability to furnish cars for hay shipments, but we cannot afford to allow our cars to be tied up. At this date we have eighty-four cars lying at Weehawken terminal waiting to be ordered to Williamsburg."

You will understand that this is the point of delivery for Brooklyn. With regard to the statement that the agents were instructed not to ship any hay unless loaded for F. Williams & Co. or Frazee & Co., I would call the attention of the Board to my former communication on this subject, in which I state that an order was issued permitting shipments only to parties who promptly unload the cars; this was the order referred to in Vroman & Wood's communication and was rescinded within a few days after its issue for reasons stated in my letter."

At the hearing Mr. Wood positively contradicted the statement in Mr. Layng's letter and asserted that the delay in unloading the cars was in no respect the fault of the complainant; that their cars were consigned to Palmer's dock, Brooklyn, and unloaded as soon as received.

The contradictions of fact being so explicit, the Board again postponed the hearing to February the eighteenth at 10 A. M., with the view of giving the railroad company an opportunity to appear, and sent a letter dated February the eleventh to Mr. Depew, the president, calling his attention to the fact that no appearance had been made by the railroad company.

On the latter date, viz., February eighteenth, the complainants, with their counsel, S. S. Hatt, Esq., and witnesses were again present, including the agent of the railroad company at Feura Bush. No appearance, however, was made by the railroad company, but a letter was received from Mr. Layng, dated February the seventeenth, to the effect that he had only received the notice of the Board the evening previous; that it was too late to be at Albany; that he would be absent on the line the next week, but that either he or his counsel would appear if the case were again postponed, and suggesting that it be set down at an hour not later than two o'clock, etc.

The Board takes occasion to call attention to the fact that the indifference displayed by the authorities of the West Shore road to the repeated notices of the Board of a hearing before it in this complaint, raises a presumption against the road, and is a further illustration of the necessity of the law being amended so that the decisions of this Board can be enforced. The progress of this case shows clearly that the authorities of a railroad corporation will disregard the investigations of the Board in matters involving the very business existence of citizens of the State, under the impression that the decisions of the Board have no weight in law. Fortunately in this case, however, for the complainants, the railroad company has violated a distinct statutory provision, as is hereinafter shown, and consequently can be brought within the reach of the law.

At the hearing last mentioned, however, the Board heard the complaint and testimony of the complainants in substantiation thereof, from which it appears that from November the 6th to December 28, 1889, they were unable to procure but one car for the transportation of their hay and straw to New York market, although upon nearly every day between those days they made demand upon the company for cars, but were unable to obtain them.

That on December twenty-fourth, they made complaint to this Board and that the company upon notice from the Board began to recognize the repeated demands of the complainants and gave them cars; that

between December 28, 1889, and January 17, 1890, nineteen days, they had eighteen cars — far too few for their use and purposes; that from January the 17th to January 31, 1890, fourteen days, they had no cars, although still making demands on the agent therefor.

That this state of affairs is resulting disastrously to the business of the complainants at Feura Bush, and that they will have to do as others before them have done, give up that place as a shipping point, unless matters be remedied.

They further allege that during this period between November sixth and December twenty-first other parties came to Feura Bush and obtained cars for transporting hay to New York viz.: Phillip Schorbuer, and a Mr. Moak; that at Coeymans Junction the next station south, cars have been supplied to Mr. Ward, a shipper of hay and straw, during this period and apparently all that were needed, that is thirteen from January twentieth to January twenty-fifth; that at South Bethlehem another station near Feura Bush, Mr. Schorbuer has had cars upon his orders for the transportation of the same kind of produce.

The complainants further show that other shippers referred to, both at Feura Bush and other places specified, have been allowed cars provided they would ship to Frazee & Co. or F. Williams & Co.; that on November the seventh the agent at Feura Bush showed the complainants an order received by him, signed by D. B. McCoy, superintendent, not to allow shippers to load cars with hay for Brooklyn, but to allow cars to be shipped to Frazee & Co. or Williams & Co.

That the complainants then sought to ship to Albany and then to Brooklyn and after sending a few cars, received notice that no more cars would be furnished for Albany.

The complainants then allege that just prior to January 25, 1890, the agent at Feura Bush informed the complainants that he had received orders not to permit complainants to load any more cars with hay for Brooklyn.

#### CONCLUSIONS.

It will be observed that the defense or explanation of the railroad company, for the extraordinary state of facts hereinbefore recited is that the consignees of Vroman & Wood, viz.: Vroman & Co. of Brooklyn, do not unload the cars promptly. This is positively contradicted under oath by Mr. Wood, and Mr. Vroman of Vroman & Co. in Brooklyn.

Mr. Vroman testifies that the cars from Weehawken are transported on floats to Palmer's dock, Brooklyn, and that as soon as received there they are unloaded immediately, often the same day and rarely, if ever, later than within two days.

It is evident to the Board that the delay occurs at Weehawken and is the fault of the railroad company, in view of the fact that the cars are billed through to Palmer's dock, Brooklyn, and that an extra charge of two dollars is made by the railroad company for this service. It is to be noted here that the railroad company will float these cars to their station at Thirty-fifth street, New York, for two dollars less than to Palmer's dock, Brooklyn.

In corroboration of Mr. Vroman's statement, a copy of a telegram from the agent of the railroad company at Palmer's dock to P. R. To general freight agent of the West Shore road, was submitted, as

lows: "S. Vroman & Co. complain that they can get no cars for this station from Feura Bush. *Please rescind this order as they are prompt removers of hay.*"

*First.* The Board finds that the West Shore railroad has disregarded its duties as a common carrier in failing to provide Messrs Vroman & Wood with cars, and specifically, that it has violated its statutory duty under section 36 of the General Railroad Act, chapter 140 of the Laws of 1850, which provides that "Every such corporation \* \* \* shall furnish sufficient accommodations for the transportation of all such \* \* \* property as shall within a reasonable time previous thereto be offered for transportation at the place of starting."

*Second.* The Board finds that the West Shore railroad has shown unjust discrimination against Vroman & Wood and in favor of other shippers, in that other shippers have been provided with cars for the shipment of their produce while Messrs. Vroman & Wood have been deprived thereof.

*Third.* The Board finds that the West Shore railroad has acted in defiance of law in declining to furnish Vroman & Wood cars wherein to ship their produce to Albany so that the same might go down the Hudson river.

*Fourth.* The Board recommends that the West Shore railroad furnish Messrs. Vroman & Wood at Feura Bush, sufficient accommodation for the transportation of all such property as shall be offered for transportation at the place of starting, in conformity with section 36 of chapter 140 of the Laws of 1850, whether consigned to Brooklyn, Albany or any other point reached by the West Shore railroad and its connections.

By the Board.

The company not complying with the above recommendation, it was cited to show cause why such should not be presented to the Attorney-General for his consideration and action. At the appearance it was shown that the complainants had disposed of their business and that the purchaser and successor ordered a suspension of proceedings, the company giving him the service he required.

## XX.

IN THE MATTER OF THE COMPLAINT OF H. FORDHAM & SON v. THE LONG ISLAND RAILROAD COMPANY.

February 24, 1890.

Under date of January 7th, 1890, H. Fordham & Son of Greenport, N. Y., complained that the Long Island Railroad Company's charges to them upon rattan baby carriage bottoms, and on wire, were excessive. They say:

"We inclose freight bill of January fourth, on eight bundles, 1079 pounds of wire, at twenty-five cents per hundred weight on Long Island railroad; we also inclose freight bills on the same from Cleve-

land, O., to New York city. By examining these bills you will find that the Long Island Railroad Company have charged as much from New York to this place as the Union Line from Cleveland to New York. We claim the rate is too high. We have had wire over the same route for over ten years and have never charged us more than fifteen cents per hundred weight before.

"They are charging us ninety cents per hundred weight on rattan carriage bodies, compelling us to ship by the way of New London; we find that we can pay freight to New London and from New London to New York and then save thirty per cent. This puts us to a great disadvantage, as we can only ship on certain days that the packet runs, but are obliged to do it in order to compete with makers at other places. The Norwich line only charges us thirty-two cents per hundred weight, and we are willing to pay the railroad company fifty cents per hundred weight, and offered to agree to ship all our freight over their road for the whole year, and not patronize the steamer, provided they gave us reasonable rates."

This complaint was duly forwarded to the railroad company and on the thirtieth of January, Austin Corbin, president, replied as follows:

"In reply to your favor of the twenty-fifth inst., inclosing complaint of Fordham & Son, I beg to say, that they did at one time have a special rate of fifteen cents per hundred pounds on wire, but I am advised by our traffic manager that it was cancelled when the Railroad Commissioners recommended the withdrawal of the special tariff. Our traffic manager also advises me that the rate on carriages is as low as we can afford to make it and it is no greater than we charge to other people."

This answer was forwarded to the complainants, who replied:

"We were not aware that the rate of fifteen cents per hundred weight on wire was a special rate; we have had that here for ten years, and consider twenty-five cents, the present rate, exorbitant.

"We inclose you freight bill, Feb. 5th, 1890, 1120 lbs. wire, twenty-five cents—260—. This lot of wire was in boxes, five of which measured 5"x9"x43" and one measured 5"x9"x23". This will show you that it was very compact, in fact, like solid iron (the regular rate on which is fifteen cents per hundred weight) and yet we are charged twenty-five cents, or five dollars per ton from New York here.

"On November 24th, 1889, we had shipped from South Gardiner, Mass., some wooden bottoms, crated, the rate on which was twenty-three cents per hundred weight to New York; the Long Island Railroad Company charged us sixty cents on them and we complained of it as being too high, which the agent, W. W. Griffin, said was a mistake and that the excess would be refunded, but we have never received it.

"On January 15th, 1890, Mr. Smith, general freight agent, promised us a rate of fifteen cents per hundred weight on wire, and sixty cents per hundred weight of finished rattan carriage bodies, and at the same time told us he would notify Mr. Griffin, the agent here, of that fact. Mr. Griffin tells us he has never been notified.

"We admit that they do not charge us more on carriages than they do other people, for the reason that we are the only people who send carriage bodies over their road, and they are nested so that four of them take up very little more room than one completed baby carriage.

"Next month the railroad company will drop their rates (as soon as the boat goes on) no doubt, but we claim, as manufacturers, the railroad company should be compelled to give us rates somewhere in the bounds reason."

The complainants make two points: first, the exorbitant freight charges made by the Long Island Railroad Company; and, second,

that the company should refund to them overcharges, which they allege the agent admitted was just.

The examination of the freight tariffs of ten railroads in this State shows a wide difference in the rates upon these classes of merchandise embraced in the complaint. Thus, wire in bundles, the minimum for 100 miles is nine cents; maximum, twenty cents. Wagon bottoms, minimum for 100 miles, thirteen cents; maximum forty cents. Upon these ten roads the average rates are for 100 miles, wire in bundles, 14.7 cents; wagon bottoms, 19.3 cents.

These figures demonstrate the fact that the range in the rates charged by different roads in the State upon the same freight is extremely wide, one road asking two and one-half times as much for the same service as another.

Each road is vested with the power to make these freight rates. Those of the Long Island Railroad Company, upon the articles specified, are, however, upon wire in bundles, twenty-five per cent higher than the maximum rate above given, and upon wagon bottoms, it is two and one-quarter times greater than the maximum rate; thus showing that the rates upon the merchandise referred to is largely in excess of any of the above ten representative roads, and are calculated to elicit the suggestion that a railroad company may fail to realize the highest possible income from its territory, by charging such rates as to restrict business and to limit traffic upon its road, instead of developing the country which is tributary to it. At present the law makes the roads the judges of the relations they bear to such traffic and its development, provided the rates are reasonable and do not unjustly discriminate.

#### RECOMMENDATIONS.

The Board recommends that the amount of overcharge upon the consignments referred to made by (as it is alleged) an error in billing, shall be corrected, and the difference in charges which were made, and those which could properly be made, shall be refunded to the complainants.

*Second.* That the old rate, viz.: fifteen cents per hundred pounds on wire be restored, and the rate on wagon bottoms be reduced to fifty cents per hundred pounds, which would then leave it twenty-five per cent higher than the maximum rate charged by the ten roads above referred to.

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## XXI.

IN THE MATTER OF THE COMPLAINT OF JAMES M. RAE v. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

February 25, 1890.

This complaint, dated July 17, 1889, was lodged with the Board.

In general terms it alleged that the embankment of the Erie railroad, in the Fifth ward of Elmira, obstructed the flow of the waters of the river in times of freshet to such an extent as to inundate the houses



and lands of the inhabitants of that ward, and prayed that the Board would take such action as would redress the grievance.

The complaint was transmitted to the railroad company and a reply received, dated July the 26th, denying the responsibility of the road for the grievances complained of.

A preliminary hearing was had at Elmira by Commissioner Rickard on August the 21st, 1889. The matter proved of so much importance as to receive a recommendation from him that the whole Board should inspect the premises and have a hearing at a later date.

A hearing was set down and had before the Board at Elmira on October the 16th, after notice to complainant, city authorities and parties in interest. The complainant was represented by James A. Gibson; the railroad company by D. C. Robinson. The city authorities and numerous citizens were present and took part in the proceedings.

The premises were carefully inspected by the Board and a vast amount of testimony taken. It was then ordered that briefs from the complainant and respondent should be handed in by the first of December. Concurrent requests, however, from Messrs. Gibson and Robinson, dated November the 22d were received, to postpone the filing of briefs until February the 1st, 1890, on the ground that the engineer, F. Collingwood, who has been retained by the city of Elmira to survey the vicinity and devise means for preventing the inundations in future, had been unable to make his report, which request, after some correspondence, was granted.

The briefs were finally filed on the 4th day of February, 1890, and an oral argument had at that time. A copy of the report of Mr. Collingwood was finally transmitted to the Board by Hon. C. S. Davison, Mayor of Elmira, on February 17th, 1890. In the meantime the Board had a survey and report from its inspector, Thomas W. Spencer, presented on October 14th, 1889, in time for the hearing at Elmira on the sixteenth of that month.

The Board finds the substantial facts with regard to this complaint to be as follows:

The Fifth ward of the city of Elmira is one of the largest of the city. It is situated south of the Chemung river, which forms its northern boundary and separates it from the rest of the city. Adjoining it on the south is the town of Southport, a large and busy town.

The road-bed of the New York, Lake Erie and Western railroad commencing at the terminus of the bridge across the Chemung river, passes through the ward in a southerly direction on an embankment, averaging from six to ten feet in height until the high ground, some 3,000 feet from the river, is reached.

It appears that in the year 1865 a severe freshet, much similar to that of last June, occurred and the embankment was to a great extent washed away. At that time there were comparatively few buildings within the flooded district. At the time of rebuilding the embankment the railroad company left a number of openings, either two or three, from thirty to forty feet in length each. About 1875 these trestles were filled with the exception of two culverts, one of which was adjacent to Mr. Rae's land, which he describes as having been sixteen to twenty feet in width, and of the height of the embankment and, therefore, capable of carrying off a considerable amount of water. A year ago last May, it is asserted, these culverts were filled up

leaving pipes of some two feet in diameter to carry off the surface water.

Subsequent to the freshet of 1865 a dike was built along Hine street from the north bank of the river to a point in Hine street where the original surface is above high water. A dike was also built along the south bank of the Chemung river between the railroad bridge and Hine street.

At the time of the tremendous freshets in June, 1889, the Hine street dike was not sufficiently strong or high at all points to withhold the flood, and two breaches were made therein. The old dike along the south bank of the river appears to have been broken at intervals, probably by being leveled down by the owners of property, and the flood found openings into the flooded district through these low points.

The embankment of the road, as above described, acted as a dam at the time of the overflow in June, 1889, and the difference in level between the surface of high water above the embankment and below it, was about three and a half feet, opposite Mr. Rae's house. This condition of affairs existed until the water broke over the embankment and washed portions of it away and finally subsided.

Mr. Rae and the inhabitants of the Fifth ward generally, complain that this difference of level, causing so much greater depth of water above the embankment than would have existed had there been no embankment, has been the source of great injury to them, and that openings in the embankment of a sufficient extent to admit of the passage of water should be made, or if necessary the entire embankment removed and the road put upon a trestle or bridge.

It is also claimed by the complainants that the embankment of the railroad company crosses or intersects certain ancient watercourses, which carried off in these channels the overflow of the Chemung river; that, therefore, the railroad company comes within the provisions of subdivision 5 of section 28 of the General Railroad Act, viz., chapter 140 of the Laws of 1850, which provides that a railroad company "may construct its road across \* \* \* any stream of water, watercourse \* \* \* but the company shall restore the stream or watercourse \* \* \* thus intersected or touched, to its former state or to such state as not unnecessarily to have impaired its usefulness."

The railroad company, in an elaborate brief submitted by Messrs. J. A. Buchanan and D. C. Robinson, deny that the embankment of the Erie road intersects any natural watercourse. They insist that to carry off the overflow of such an inundation as took place in June, 1889, or as was threatened in November, 1889, it would be necessary to have the entire embankment of the Erie road upon a trestle or bridge, which would be very expensive, if not impracticable to operate; that if the railroad company make openings from point to point in its embankments, it is threatened with injunctions and suits for damages from parties living below the embankment, upon the ground that the water which would thus be precipitated upon their land, would be at such high velocity as to do much greater damage than would be caused by an overflow, however considerable, under natural conditions; that as a matter of fact, the embankment acted as a dam, and thus retarded the velocity of the water; that consequently, much less damage was

done in the Fifth ward than would have occurred had the waters run through without impediment.

The respondent raises various other points as to the jurisdiction of the Board and the merits of the case, which the Board will not consider in detail, as it does not seem necessary in connection with the conclusion reached.

It is proper to state that S. W. Hall, owning some seventy acres of improved lands adjoining the southern boundary of the Fifth ward, protests against openings under the Erie railroad, thus possibly precipitating water with destructive velocity upon his lands, and advises the construction of dikes as hereinafter advised by the Board.

Mr. Hall says, "The essential facts in the case are that the railroad company, the city of Elmira and its citizens, are *all* trespassers on the high water way of the Chemung river. The only remedy open, is for them either to remove their obstructions or attempt to avert as far as possible, the evil results of their encroachments."

#### CONCLUSIONS.

After careful consideration of all the facts and circumstances surrounding this important complaint, the Board is of the opinion that it has jurisdiction under the general powers with which it is invested by section 6 of chapter 353 of the Laws of 1882, wherein it is said, "Whenever, in the judgment of the said Board of Railroad Commissioners, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad within this State \* \* \* or that any change in the mode of operating the road and conducting its business is reasonable and expedient in order to promote the *security*, convenience and accommodation of the public, the said Board shall give notice and information in writing to the corporation of the improvements and changes which they deem to be proper."

It is also highly probable that the railroad company could be brought within the provisions of subdivision 5 of section 28 of the General Railroad Act hereinbefore cited in reference to the intersection of watercourses. It is but fair to state, however, that the testimony as to whether the embankment of the railroad company intersects a former watercourse was not absolutely conclusive. The Board would hardly be justified in finding as a matter of fact that there was this watercourse, but leaves that question to be decided by the courts should the railroad decline to conform to the recommendation of the Board, under its general powers, hereinafter made.

The Board is clearly of the opinion, however, that whether there was an ancient watercourse through the Fifth ward or not, there should be no such watercourse at present. It appears to it the height of recklessness for the city of Elmira or the inhabitants of the Fifth ward to delay a day longer the substantial reconstruction of the dike at Hine street, and the old dike along the south bank of the river from Hine street easterly to the railroad bridge. It is to be remembered that a very slight rebuilding of the Hine street dike was sufficient to prevent the November flood from again inundating the Fifth ward. There can be no question, therefore, but that this Hine street dike should be strengthened, and widened, and raised, or that a new dike

should be built from the north end of the Hine street dike in a westerly direction, until high ground is reached.

In a preliminary report from F. Collingwood, dated November the 25th, 1889, he estimates that such a dike, 6,700 feet in length, reaching from Mount Zoar to the dike now standing above the dam, which he said had never been overflowed, would cost about \$12,000. This seems to the Board an insignificant sum in comparison with the benefit to be derived.

Should this system of diking be reconstructed, the inhabitants of the Fifth ward, west of the railroad bridge, would be measurably free from future floods. It is possible, however, that in some extraordinary flood this dike, or portions of it, might give away. Under these circumstances the close embankment of the Erie road would unquestionably act as a dam, and cause very great damage. It seems, therefore, but right, as a precaution against this possible danger that an opening should be made under the Erie tracks to allow the egress of such water.

In the absence of such dikes to protect the Fifth ward, the Board is of the opinion that any openings in the railroad embankment would be useless to carry off the water, and dangerous to those below. It entirely concurs with the statements in the fiscal report of Mr. Collingwood, in this respect, wherein he says, "Those who saw the flood of 1865, which did not equal this in volume, and the damage then done, can appreciate these figures (those in reference to the quantity and velocity of the water). The openings then provided were totally inadequate, and the water cut out a path through the embankment some 1,000 feet or more long, as I now remember. The conclusion from this discussion is, that while under-ground crossings are very desirable on the score of safety and convenience, it is impracticable to make such of sufficient width to pass safely such a flood on account of the high velocities necessary, and they would not afford the relief expected from them by those residing above the railroad. The *only* remedy is to improve the river and shut the floods out."

On the other hand, however, it is to be considered that this embankment crosses a large number of streets, viz.: Partridge street, South Elm, Henry, Hudson, Chemung place and Pennsylvania avenue, the last mentioned street being one of the main thoroughfares through the valley, and formerly the old plankroad; that over this road-bed not only the trains of the Erie but also the Northern Central, Tioga and Lehigh Valley pass; that from seventy-five to one hundred regular trains pass daily to connect with the depot on the north side of the river, to say nothing of the switch engines and other trains that run over it in connection with the Northern Central shops and other places beyond the ward where cars of the various roads are kept.

The obstruction to the use of these streets is very great. A personal inspection thereof by the Board satisfies it that such obstruction should be cleared, at all events, on some of the streets. The Board has had prepared a careful survey and report by its inspector as to the practicability of an undercrossing of Pennsylvania avenue. Mr. Spencer proposes to raise the present grade of the double tracks of the railroad, at the crossing of Pennsylvania avenue, two feet. This will give a descending grade from the bridge over the Chemung river

to the avenue, a distance of 1,550 feet, of five feet per mile. From the south side of the proposed undercrossing at the avenue to the junction of the Northern Central railroad at South Second street, a distance of 1,350 feet, the grade of the railroad will descend at the rate of nine feet per mile. The proposed bridge will have a roadway of twenty-four feet between the iron supports of the trusses and a clear span of twelve feet for sidewalks on each side of the avenue. Eleven feet is the proposed headroom for the avenue under the bridge.

Pennsylvania avenue crosses the railroad at an angle of about forty degrees; Partridge street crosses the railroad from the west nearly at right angles, intersecting Pennsylvania avenue immediately east of the railroad. It is recommended to join these streets west of the railroad and carry both under one bridge. To do this it will require the purchase of a piece of land 120 feet on Partridge street and 180 feet on Pennsylvania avenue, both measured from the westerly boundary of the railroad lands, in all about one-third of an acre. It is also recommended to depress Pennsylvania avenue below its present grade, exclusive of the approaches to the present grade crossing, about five feet. This depression it is recommended to overcome by grades of about one foot per rod. The surface of the depressed roadway will be about one foot above the surface of water in the "dug well," the data of which were submitted by the railroad company. The estimate in detail submitted by Mr. Spencer for this improvement, exclusive of the price of the land and other small incidentals, is \$12,490.

There is not only not any thing impracticable about this proposed undercrossing, but in view of the great obstruction to travel on Pennsylvania avenue, and streets leading east and west through this ward, the Board is of the opinion that it certainly should be constructed.

The Board of Railroad Commissioners has no authority to recommend to the city of Elmira the reconstruction and strengthening of the dike at Hine street or westerly thereof, and of that on the south bank of the river between the Hine street dike and the railroad bridge. It deems, however, the reconstruction of these dikes to be so important a matter that it would not be justified in recommending the railroad company to construct an undercrossing for reasons hereinbefore mentioned, until the dikes shall have been reconstructed and strengthened either by the city or the inhabitants of the Fifth ward.

It is proper to state that an elaborate report has been made by F. Collingwood, offering five alternatives in the way of diking, confining the channel of the Chemung river and other improvements. These proposed improvements would cost from \$336,000 to \$700,000. The Board expresses no opinion as to the practicability of adopting any of them, leaving it entirely to the determination of the city of Elmira. It is, however, in the strongest way impressed with the necessity of the city or the inhabitants of the Fifth ward adopting such a system of diking as hereinbefore explained.

#### RECOMMENDATIONS.

The Board recommends that after the dike at Hine street shall have been strengthened and raised to a point two feet higher than the high-water mark at the June flood, or a new dike shall have be



built from the northern end of the Hine street dike westerly to high ground, of a height two feet higher than the high-water mark of the June flood, and after the old dike now on the south bank of the Chemung river extending from the Hine street dike to the railroad bridge, shall have been strengthened and reconstructed to a height at least two feet higher than high-water mark of the June flood, such construction and reconstruction to be made by either the city of Elmira, the inhabitants of the Fifth ward or by private subscription, that then and thereafter the New York, Lake Erie and Western Railroad Company shall construct an undercrossing at the junction of Pennsylvania avenue and Partridge street, so as to carry said Pennsylvania avenue and Partridge street beneath the tracks of said Erie railroad, in the manner hereinbefore described in this report, and particularly set forth in the report of Thomas W. Spencer, a copy of which is hereunto annexed.

By the Board.

#### INSPECTOR'S REPORT.

*To the Honorable the Board of Railroad Commissioners:*

GENTLEMEN — As instructed, I have made an approximate estimate to construct on the New York, Lake Erie and Western railroad, a double track bridge over Pennsylvania avenue in the city of Elmira, N. Y., the estimate being based on the following outline:

At the crossing of Pennsylvania avenue it is proposed to raise the present grade of the double tracks two feet. This will give a descending grade from the bridge over the Chemung river to the avenue, a distance of 1,550 feet of five feet per mile. From the south side of proposed undercrossing at the avenue to the junction of the Northern Central railroad at South Second street, a distance of 1,350 feet, the grade of railroad will descend at the rate of nine feet per mile. The proposed bridge will have a roadway of twenty-four feet between the iron supports of trusses and a clear span of twelve feet for sidewalks on each side of the avenue. Eleven feet is the proposed headroom for the avenue under the bridge. From base of rail to under side of girder sixteen inches. Pennsylvania avenue crosses the railroad at an angle of about forty degrees. Partridge street crosses the railroad from the west nearly at right angles, intersecting Pennsylvania avenue immediately east of the railroad. It is proposed to join these streets west of the railroad and carry both under one bridge, and for that reason it is proposed to construct the abutments at right angles with the railroad. To do this it will require the purchase of a piece of land 120 feet on Partridge street and eighty feet on Pennsylvania avenue, both measured from the westerly boundary of the railroad lands; in all about one-third of an acre. It is also proposed to depress Pennsylvania avenue below its present grade (exclusive of the approaches to the present grade crossing) about five feet. This depression it is proposed to overcome by grades of about one foot per rod. Probably this grade can be reduced one-fourth, by extending the approaches, without damage to adjoining property.

It is proposed to provide for the drainage of the depressed roadway by using small sized vitrified pipe and draining into Sly pond. The surface of the depressed roadway will be about one foot above the surface of water the "dug well" as shown on profile and section of proposed opening accompanying this report. Immediately south of Pennsylvania avenue now located a signal tower and switch interlocking device at the crosser tracks used by the Northern Central railroad. There are also three tings out of the main tracks between Pennsylvania avenue and South cond street for the convenience of coal sheds and a lumber mill. These tings will have to be raised in part to conform to the proposed raised ade. To raise the tower and interlocking connections and rearrange sidings will cause an expense of several hundred dollars, which with

the additional land and the loss by hindrance of trains while tracks are being raised are not included in the estimate.

The approximate estimate is as follows:

*Estimated cost of constructing an undercrossing at Pennsylvania avenue in the city of Elmira, N. Y., on the New York, Lake Erie and Western railroad.*

Quantities.	ITEMS.	Price.	Amount.
6,000	Cubic yards of gravel to be used in raising tracks and road-bed.....	\$0 50	\$3,000 00
3,000	Cubic yards earth excavation in depressing streets and from abutment foundations.	40	1,200 00
210	Cubic yards first-class masonry in abutments and piers.....	9 00	1,890 00
200	Cubic yards vertical retaining wall.....	5 00	1,000 00
	Drainage of depression under railroad.....		500 00
	Additional pipe and masonry at ends of pipe culverts.....		100 00
	Double track viaduct over street.....		4,800 00
	Total cost exclusive of items before mentioned .....		\$12,490 00

Respectfully submitted.

ALBANY, N. Y., February 10, 1890.

THOS. W. SPENCER,  
Inspector.

## XXII.

### IN THE MATTER OF THE COMPLAINT OF HOWARD A. SPERRY v. THE LONG ISLAND RAILROAD COMPANY.

March 3, 1890.

This complaint was lodged with the Board on the 30th of January, 1890, and is as follows:

"There exists at Douglaston station on the N. S. division of the L. I. R. R. a grade crossing of highway where the track going east enters at once a deep cut, so that it is almost impossible to either see or hear an approaching train from that direction, which crossing, in the opinion of many residents, is extremely dangerous. Many narrow escapes have occurred even where the utmost care was used by the travelers on the highway, and at least one bad collision has happened within a few years. It is claimed by many residents that the trains do not sound the whistle on approaching the highway in many cases, but whether the failure to hear the same is caused by the conformation of the vicinity or the direction of the wind or not, I cannot say, yet it is obvious the common safety requires that gates should be maintained by the railroad company at this point."

The complaint was forwarded to the Long Island Railroad Company, and, under date of February seventh, Austin Corbin, president answered as follows:

"I have to say that this is one of our branch roads and trains are infrequent over it; there never has been an accident and there never is like to be, as extra precautions are taken in running trains past such crossin

where we have no flagman. We cannot afford to maintain a flagman there; the business will not warrant it: but in order that everything should be done that can be, outside of employing a flagman, I have ordered that an electric signal gong should be placed in such a way as to give ample warning of an approaching train."

The answer having been sent to the complainant, on the twelfth of February he reiterates his statement and requests "an examination of the crossing by a member of the Board, and a hearing on the question."

Pursuant to notice given to complainant and the officers of the road, one of the commissioners made a personal inspection of the premises on the twenty-eighth of February.

Mr. I. D. Barton, Superintendent of the Long Island railroad, was present, representing the road, and Howard A. Sperry, the complainant, was also present.

Superintendent Barton stated that in many similar instances the Long Island road had furnished an electric bell or warning signal that had proven effective; that there was one ready delivered at Douglaston station and would promptly be put in operation. The complainant, after discussion and examination, decided that it might answer every purpose, and, therefore, withdrew his complaint for the present.

### XXIII.

#### IN THE MATTER OF THE COMPLAINT OF CITIZENS OF CAZENOVIA V. THE SYRACUSE, ONTARIO AND NEW YORK RAILWAY COMPANY.

March 18, 1890.

This complaint, dated February the tenth, signed by ten residents of Cazenovia, alleged that the tunnel of the Syracuse, Ontario and New York Railroad Company near Cazenovia was built through shale rock, portions of which had repeatedly given away, obstructing travel for a time; that the tunnel was not properly arched or lined; that it was propped with timber in places, and that water percolated through the open seams of the shale rock; quite recently some thirty feet of the slate roofing fell, preventing the use of the track for a few days; that the citizens who have frequent occasion to ride through the tunnel are uneasy regarding its dangerous condition and think there should be no delay in ordering a minute inspection, its use stopped if unsafe and the assurances of the Commission to relieve anxiety if found to be otherwise.

A copy of this complaint was sent to the railroad company, and an answer received February the twentieth, to the effect that the tunnel had been the subject of very serious consideration by the company, and had been for some time in the hands of the proper officer with instructions to report as to the cost and feasibility of substituting an open cut for the present tunnel, and if such cut is not feasible, or too expensive, for estimates for arching the tunnel; that the president of the company was assured by the operating department, in the meantime, there was no cause for anxiety or alarm upon the part of the traveling public.



This answer was sent to the complainants. In response thereto a communication was received to the effect that the same condition of affairs at the tunnel confronted the officers of the company a year or more ago, and that the question of rearching or making an open cut was then under consideration; that the assurances that there is no cause for anxiety or alarm upon the part of the traveling public would carry great weight did it come with the authority of the Board of Railroad Commissioners, after causing a careful inspection of the tunnel.

Upon receipt of this answer, the Board instructed its inspector, Mr. Thomas W. Spencer, to make a careful inspection of the tunnel and report his conclusions to the Board. A copy of his report is appended hereto.

He is of the opinion that there is no immediate danger of accident to a passing train, inasmuch as the tunnel is carefully watched. He deems, however, that steps should be taken to insure permanent safety, as well as to allay the fear of accident upon the part of the public. He submits estimates for relining the tunnel in different ways and for an open cut.

The Board recommends that the tunnel be relined or an open cut made, in accordance with one of the plans submitted, at the earliest practicable time.

By the Board.

## XXIV.

DEWITT C. RODENHURST ET AL. v. THE ROME, WATERTOWN AND OGDENSBURG RAILROAD COMPANY.

March 19, 1890.

The allegation was that in the village of Philadelphia, the Rome, Watertown and Ogdensburg Railroad Company blockaded their crossings at night, as well as the day, because of the insufficiency of tracks and yardmen within the company's yard.

The company replied that, previous to securing a copy of the above complaint, the general manager had asked authority to put in additional side tracks and to make other improvements at the Philadelphia yard which had been immediately granted him and the work was then in progress.

## XXV.

G. C. NORTHRUP v. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

March 24, 1890.

Mr. Northrup complained that the New York, Lake Erie and Western Railroad Company had, without authority of law or the sanction of the Board, suspended the operation of the Conesus Lake railroad leased by the New York, Lake Erie and Western Railroad Company.

The company did not deny the fact of such suspension, but tried to justify upon the want of business during the winter months. Finding it had proceeded irregularly, it made application for permission of the Board to suspend operations. This the Board refused to consider until such time as the company had put the railroad into operation. After waiting a reasonable time, and finding that the company did not resume operations, the Board addressed a communication to the attorney-general informing him of the violation of law upon the part of the New York, Lake Erie and Western Railroad Company. Three weeks thereafter, to wit: the eighteenth day of February, the Attorney-General informed the Board as follows:

ALBANY, February 18, 1890.

To the Board of Railroad Commissioners:

SIRS.—In the matter of the Conesus Lake railroad, I have to report that Mr. Sprague, of counsel for the New York, Lake Erie and Western Railroad Company, has appeared before me and made a statement, a copy of which I herewith inclose, from which it will appear that he has given me the assurance that the road shall be put in operation within thirty days from the time that the statement was made, namely: February thirteenth.

In case this assurance is made good, it would seem that proceedings on the part of the Attorney-General would not be advisable, but, if the railroad company fails to put the road in operation within the time specified, I have to request that I be informed of the failure, in which event I will take such proceedings as may be authorized by law to compel the company to operate the road.

Very respectfully,

CHARLES F. TABOR,  
*Attorney-General.*

#### STATEMENT OF MR. SPRAGUE.

The Conesus Lake railroad is a road about one mile and a quarter in length, running from Conesus lake to the main tracks of the New York, Lake Erie and Western Railroad Company. It was built for summer travel, but some winter freight business has been done to accommodate the makers of ice. I understand also, that there was a manufacturing establishment of some sort, which the winter traffic also accommodated and which has since burned down. Sometimes the road has been operated in the winter for passengers to some extent, and sometimes it has not, but as I am advised, it is found that the attempt to operate it for passengers in the winter entails a large loss and is not very much needed.

The difficulty between the people and the New York, Lake Erie and Western Railroad Company has arisen really out of the fact that formerly the Erie made a flag station at the point of junction between the Conesus Lake railroad and the Erie, so that people could walk or drive there and take the passenger trains, either way on either road. This flagging has been discontinued by our agent at Rochester, without the authority of the company. We have advised the company to resume this flagging as speedily as possible.

Complaint was made to the Railroad Commissioners, and the Erie signified to the Commissioners that they would like to present a petition to be allowed to discontinue the operation of the Conesus Lake road: the five winter months, as provided by the Laws of 1886, to which the Commissioners replied that they would not hear such petition so long as we were violating the law, but that they would hear us as soon as we put our road in condition to be operated as required by law, as they understood it. The putting of the road in condition for passenger traffic requires repairs of track and the putting of the road in a different position than what is required for mere freight traffic.

We have advised the company, at once and as speedily as possible to restore the flagging of trains at this junction, and to put the road in condition to operate a daily train for passengers so as to comply with the law.

The ATTORNEY-GENERAL.—That is, it is the intention now to go to work without any reference to the suspension of business under the railroad law; the idea is now to put the railroad into operation.

Mr. SPRAGUE.—Yes, sir.

Q. About how soon?

A. I think it can be done in less than thirty days, certainly. So as to put us in a position to go before the Railroad Commissioners with a petition for this discontinuance.

Q. What is your excuse for not starting your road up, and then asking for the suspension? Is not the road in condition to run at all?

A. No, sir; not that. We have been investigating the matter and have been negotiating an arrangement with the people in interest and have spent considerable time in the negotiations. That is the principal cause of delay. We have been expecting to make arrangements which would have obviated any difficulty.

Q. Then the whole truth about it is this; that the law of 1886 gives the Railroad Commissioners the right, in their discretion, to allow you to suspend business. But you suspended business without their consent, and then you made an application for a hearing, and they would not give you a hearing until you commenced operations and got yourself out of default.

A. Yes, sir.

Q. What can the Attorney-General do.

A. All we ask the Attorney-General to do is to suspend proceedings for a little while until we get into operation.

Q. Are you authorized and can you give the Attorney-General the assurance that you will, within thirty days, get your road into operation?

A. Yes, sir; I am authorized in this way: That the matter has been left with us, that we are the advisers, and that we never had an instance yet that they have not acted according to our advice.

Q. You will ask them to commence operations within thirty days, and you have no reason to believe but that they will do it?

A. Yes, sir; I ought to say in justice to the Erie company, that they had supposed this road was built for summer travel solely, and that it was not expected of them to run trains on it for passenger traffic in the winter.

The thirty days passed and the company did not put the road in operation, a fact of which the Board was promptly informed, whereupon, the Board addressed the following communication to the Attorney-General:

March 24, 1890.

Hon. CHARLES F. TABOR, *Attorney-General*:

SIR.—The Board herewith incloses a letter from G. C. Northrup, to the effect that the Conesus Lake Railroad Company does not conform either to the pledge given by the attorneys of the Erie railroad to you in reference to running trains, nor to section 36 of the General Railroad Act which provides that "Every such corporation shall start and run their cars for the transportation of passengers and property at regular times to be fixed by public notice and shall furnish *sufficient* accommodation for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting."

By the Board.

WILLIAM C. HUDSON,  
*Secretary*

## XXVI.

ALMON CUMMINGS, HIGHWAY COMMISSIONER, v. THE NEW YORK, LAKE ERIE  
AND WESTERN RAILROAD COMPANY.

April 15, 1890.

The complaint alleged that the freight trains on the Erie road blocked the crossings at Silver Springs for long periods of time, and requesting that orders be issued to trainmen to cut their trains and make openings at the highways.

The company informed the Board that immediate orders were issued to avoid any unnecessary inconvenience to the traveling public.

## XXVII.

IN THE MATTER OF THE COMPLAINT OF CITIZENS OF ROCHESTER v. THE NEW  
YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, AND THE BUFFALO,  
ROCHESTER AND PITTSBURG RAILROAD COMPANY, IN REGARD TO GRADE  
CROSSINGS.

April 21, 1890.

This complaint, dated November 30, 1889, was duly lodged with the Board. It states that the citizens of Rochester had for several years past been seeking relief from the dangers arising from grade crossings by railroads through the city; that the elevation of the tracks of the New York Central and Hudson River Railroad Company was the result of the agitation upon the subject; that notwithstanding such partial relief there were yet many crossings of streets by railroads entering the city which were eminently dangerous to life and limb and deteriorated the value of property in the vicinity.

That at a meeting held on the eighteenth of November, certain resolutions were duly adopted; that a committee of fifteen to act for the association was appointed, and that the common council of the city, as requested by the said resolutions, appointed a committee of five, consisting of the mayor, president of the common council and three aldermen to act with the citizens' committee; that this committee had been directed to present the matter to the Board of Railroad Commissioners.

The complainants then request the Board to visit Rochester and inspect the premises. The letter was signed by C. R. Parsons, mayor, on behalf of the city, and John A. Barhite, secretary of the citizens' committee.

The resolutions alluded to were to the effect that, whereas the Buffalo, Rochester and Pittsburg railroad was permitted to lay its tracks across King street at grade, it had openly violated the stipulation by raising its tracks from time to time, until at present they were about two feet above the proper grade, thereby making the contemplated improvement of King street nearly an impossibility, and that

the said railroad had laid additional tracks across King street for switching purposes.

That the grade crossings of the Buffalo, Rochester and Pittsburg and of the New York Central and Hudson River railroads at Canal, King, Brown, Maple, Saxton and Silver streets were and for a long time had been a public nuisance, endangering the lives of men, women and children, many people having been killed, as well as retarding traffic on said highways.

That it was the unanimous sense of the meeting that the railroad companies, instead of being allowed to lay any additional tracks at grade, should, by the Board of Railroad Commissioners, be compelled to elevate the tracks as the only protection and safeguard for life and limb.

In conformity with the request contained in this complaint, the Board, after due notice to all parties interested, held a public hearing at Rochester on December 18, 1889, after having inspected the dangerous points complained of in company with the complainants and representatives of the respective railroad companies.

The complainants were represented by Mayor Parsons, Alderman Kelly, C. A. Barhite, the Rev. F. X. Sinclair; the Buffalo, Rochester and Pittsburg Railroad Company by H. G. Danforth, counsel, and W. E. Hoyt, chief engineer; the New York Central by G. C. Buell, the resident director, and Edward Harris, counsel.

The Board found as a matter of fact that the crossings complained of were exceedingly dangerous, and that means should be taken for relief.

The citizens strenuously advocated the elevation of the tracks of the Buffalo, Rochester and Pittsburg at substantially all of the crossings complained of as far as Ames street.

The scheme was strenuously opposed by the representatives of the railroads. The representatives of the Buffalo, Rochester and Pittsburg road insisted that the railroad was legally where it was; that it had purchased large and expensive terminal facilities and had recently purchased considerable land between Canal street and Jefferson street for a yard; that to raise the tracks as proposed by complainants would not only be enormously expensive in itself, but would destroy the use of its yard and terminus for freight purposes, besides seriously interfering with the operation of the road in the increased grades that would be necessary. In a word, that the proposed scheme was impracticable.

The representatives of the New York Central road took the ground that a further elevation of tracks would be very expensive, and in the opinion of Mr. Buel, unnecessary.

After much discussion, the Board made a suggestion that, inasmuch as the railroads insisted that the proposed elevation of the tracks was impracticable, the complainants should prepare plans and drawings showing the practicability thereof. In conformity with this suggestion, and with a resolution of the common council in response there elaborate plans and profiles were made by Oscar H. Peacock, fi assistant city engineer, showing the proposed scheme of elevation.

The plan was as follows:

"Adopting the grade of the New York Central railroad tracks at the E canal bridge, then elevating the tracks towards the west, at the rate thirty feet per mile to the center of Brown street. Adopting the pres

grade of the New York Central railroad tracks at Ames street, then elevating the tracks toward the east, at the rate of thirty feet per mile to the center of York street and connecting the elevated portions by a direct line between York street and Brown street, representing a grade of 12.61 feet per mile.

"The grade of the Buffalo, Rochester and Pittsburg railroad to be as follows:

"Adopting the present grade of said railroad at Ames street, then elevating the tracks toward the east, so that at Colvin, Child, York, Silver, Saxton, Maple and Brown streets the elevation of said railroad tracks will be the same as that above established for the New York Central railroad tracks. From the elevation thus obtained at Brown street, to establish a grade extending easterly, falling at the rate of thirty feet per mile to a point near the Ohio basin, thence easterly on a falling grade of 21.12 feet per mile through the depot grounds to Ford street.

"The plan contemplated necessitates the excavation of various street crossings, sufficient to establish a proper headway beneath the railroad bridges, and the filling of a portion of the depot of the Buffalo, Rochester and Pittsburg railroad."

These maps and plans were submitted to the authorities of the respective railroad companies and after due notice a hearing and conference was had before the Board of Railroad Commissioners at its office in Albany, on April the 14th, 1890.

The impracticability of the plan, so far as the railroad companies were concerned, was strenuously insisted upon for the same reasons as hereinbefore mentioned and need not be repeated.

In the meantime, the Board had instructed its inspector, Mr. Thomas W. Spencer, to make a careful examination of the premises and report to the Board his views as to the practicability of the elevated plan, and if found, in his opinion, impracticable, to suggest some other plan.

Mr. Spencer duly presented a report to the Board which is herein-after quoted and forms the basis of the recommendation of the Board.

The Board finds that the proposed plan of Mr. Peacock, assistant city engineer, would be exceedingly expensive. It involves the excavation to a greater or less extent of Canal, Litchfield, King, Jefferson, Brown, Dengler, Saxton, Maple, Silver, York, Child and Colvin streets. It subjects the railroads to a very great expense, besides seriously interfering with the discharging and receiving of freight of the Buffalo, Rochester and Pittsburg at its present depot ground, and renders useless the new grounds and approaches.

It changes the present nearly level grade of the New York Central so as to make a heavy up grade going east from the junction of the Niagara Falls branch of thirty odd feet to the mile, thereby embarrassing the operation of the road.

No detailed estimate of the expense is submitted, but it is roughly guessed at by Mr. Peacock to be \$1,000,000. The railroad authorities insist that it would be far higher.

Mr. Spencer's plan is, briefly, as follows:

" \* \* \* *First.* Canal street would be reasonably safe from accident strong lift gates, thoroughly excluding pedestrians and teams, were rovided on exterior sides of the Buffalo, Rochester and Pittsburg railroad. There is but little travel over this crossing and the Central-Hudson crosses over the street.

"*Second.* At King street the Central-Hudson has a bridge, but the Buffalo, Rochester and Pittsburg crosses at grade, and their tracks are par-

allel and adjoining East Maple street. Opposite this crossing on Maple street is located a large church and a parish school. A little south of Maple street and on King street is a large public school. There is very little passing of teams at this crossing, and strong lift gates, as suggested at Canal street, would be sufficient. For pedestrians, however, especially the children, a subway could readily, and should be, provided. These suggested subways should be for each sidewalk; they should be nine feet wide and seven and one-half feet in clear, under track stringers. After passing under the tracks to the north side of Maple street the subway should turn along side of said street with steps up to its surface. Crosswalks from the upper landing of these steps are suggested, and but little divergence from the line of King street would be necessary. Iron railings on Maple street would protect pedestrians from inadvertently falling into the subway. North of the Buffalo, Rochester and Pittsburg no steps would be necessary, as the street rapidly declines in its passage under the Central-Hudson road. These subways could be readily drained.

"*Third.* Brown street is very much used, especially by teams from the surrounding country. It is paved with asphalt and is a fine avenue. At very great cost of damages to adjoining property, it is possible to depress this street under the tracks of both roads, which here closely adjoin. It is suggested, however, that this crossing be provided with strongly inclosed lift gates and that a subway under both railroads at Saxton street be constructed to relieve both Brown and Maple streets.

"*Fourth.* Maple street has a quite diagonal crossing, too much so for safety. The wheels of vehicles can too readily drop into the space between the rails and planking of crossing. It is suggested that the line of this street be diverged along the south side of railroads and depressed at west end, enabling the use of an undercrossing at Saxton street to the north side of railroads, thence re-entering into Maple street.

"*Fifth.* Tonawanda street could be widened on the north and its westerly end depressed into the subway proposed for Saxton street. This proposition would require considerable expense for land damages.

"*Sixth.* Saxton street, it is suggested, be depressed and carried at right angles under the tracks of both roads. A trunk sewer now being constructed is of sufficient depth to drain proposed depression, allowing eleven and one-half feet of head-room under the proposed bridge. There would be considerable damages to adjoining property on this street south of the railroad. It is further suggested that Saxton street be extended to a right angle junction with Brown street.

"*Seventh.* At the crossings of York, Colvin and Ames streets finger-bar gates would suffice for a time at least.

"It would be desirable to pave Saxton and Tonawanda streets as they are proposed, together with the undercrossing at Saxton street, as an outlet between the north and south sides of railroads at Brown street crossing, when that street is obstructed by trains. This route of absolute safety would be about six hundred feet longer than along Brown street. Maple street would be elongated over a direct line, nearly one hundred and fifty feet."

The Board is of the opinion that the above described method of relief will be satisfactory to the citizens of Rochester, and recommends its adoption by the railroad companies.

It is further of the opinion that the expense of constructing and maintaining the gates at Canal street and the subway at King street should be borne by the Buffalo, Rochester and Pittsburg; that the expense of constructing and maintaining the gates at Brown street, York street, Child street, Colvin street and Ames street should jointly borne by the Buffalo, Rochester and Pittsburg and the New York Central and Hudson River railroads in proportion to the number of tracks of each road crossing these streets.

That the expense of constructing the subway at Saxton street should be jointly borne by the New York Central and Hudson River

and the Buffalo, Rochester and Pittsburg railroad companies in the proportion of the respective tracks of each across the street.

That the expense incident to the change in Tonawanda street, Maple street and the opening and extension of Saxton street to Brown street should be borne jointly by the two railroad companies and the city of Rochester in such proportion as they may agree among themselves. If they cannot agree, the Board, upon request, would be willing to act as arbitrator.

By the Board.

## XXVIII.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF THE TOWNS OF BEEKMANTOWN AND CHAZY V. THE DELAWARE AND HUDSON CANAL COMPANY.

April 28, 1890.

A petition signed by some eighty residents of the towns of Beekmantown and Chazy was lodged with the Board March fourth, asking for the establishment of a station at a point on the line of the Delaware and Hudson Canal Company's railroad known as the "Spellman's" crossing in the town of Beekmantown. The reason assigned for this request was that a station at this point would be more accessible than at the point at which the present station is located, and that it is a better point from which to ship produce and to obtain coal and other supplies.

The Board also received, in addition to this petition, a communication from George Tallon petitioning that the station be changed to "Spellman's" crossing for the reason that "the farmers in the eastern part of the town raise nearly all the produce and have to draw it four miles of unnecessary travel through heavy clay roads, as they are over six miles from the station now, whereas if the station should be removed to the location desired it would be within one mile of Beekmantown station, where the hotel, principal store and all business of the town is transacted."

These petitions or complaints having been forwarded to the Delaware and Hudson Canal Company, Mr. H. G. Young, second vice president, replied under date of April 7th, 1890, that "After a careful consideration of the matter we have concluded to carry out such recommendations as you (the Board) may think proper under the circumstances to make."

A hearing was set down for Tuesday, April twenty-second, and all the parties in interest notified.

At the hearing, the petitioners were represented by John H. Spellman, and the opposition to the change (being residents in the immediate vicinity of Beekmantown station) were represented by C. L. Shedden.

After some discussion of the subject the petitioners withdrew their request for the change of the station from Beekmantown to Spellman's crossing and modified the same, asking that a side track be put in at Spellman's crossing and a flag station established at that point. Considerable testimony was given to show that a station at Spellman's



crossing would be of great accommodation to shippers of hay and other products, enabling the largest dealers to save a long haul to the present station at Beekmantown.

#### CONCLUSIONS.

The Board recommends that a side track be put in at Spellman's crossing where cars could be placed for loading and unloading, and that the morning local or mixed train, from Plattsburgh to Mooer's Junction, and the same local or mixed train, returning in the afternoon, stop on signal at Spellman's crossing.

### XXIX.

#### TOWN BOARD OF ELLICOTTVILLE V. THE BUFFALO, ROCHESTER AND PITTSBURG RAILROAD COMPANY.

May 1, 1890.

The complaint was that the crossings at Ashford station in the town of Ellicottville were dangerous, and asking for gates and flagmen and to build a high board fence between the highway and the tracks.

The company replied that the approaches to the crossing in question were unobstructed as to view, save a small oil tank, and was not dangerous; that there was no town at Ashford station or near the crossing; and that by actual count forty-eight teams and forty-three persons had passed over the crossing in forty-eight hours.

The complainants replied that Ashford station was the junction of the main line of the Buffalo, Rochester and Pittsburg road and its branch into Buffalo, and that yards of both roads, with many side tracks, were at this point; that these side tracks were constantly filled with freight cars, obstructing the view, while switching engines were frequently passing the crossing; and that the road over the tracks was the avenue of the traffic of thousands of acres of farming lands.

Commissioner Rickard of the Board visited and personally inspected the crossing complained of, February twenty-first. At this inspection the company was not represented through a mishap occurring in the office of the company, as the Board was informed by Vice-President Baldwin, who at the same time requested a hearing on the subject, which the Board granted on March 30th, 1890.

At this hearing, where the company was represented by its counsel, Mr. Danforth, the Board suggested that the course of the highway be changed in such manner as to evade crossing the tracks and in the meantime the crossing be flagged by a car inspector. The counsel withdrew to submit the proposition to the officers of the company with a view of conferring with the highway commissioners of the town. Hearing nothing further from either side, a month later the Board requested information from the counsel as to the progress made. Mr. Danforth promptly replied that the highway commissioners were unwilling to make a change of highway suggested, but would call a meeting and ascertain

the wishes of the citizens as to matter. In the meantime the company had removed the oil house to the other side of the track and there the matter rests, the Board not having heard as to the proposed meeting of citizens.

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## XXX.

RESIDENTS OF HAMILTON, MADISON COUNTY, V. HAMILTON STATION, LIVINGSTON COUNTY.

May 6, 1890.

The residents of Hamilton, Madison county, informed the Board that in the county of Livingston on the line of the New York, Lake Erie and Western railroad was a station known as Hamilton station, at which there was neither a village nor a post-office, whereas the Hamilton they represented was both a village and a postal station on the line of the New York, Ontario and Western railroad. Because of the identity of the names of the two places and the similarity in the names of the two railroads, a great deal of confusion had resulted and freight destined for Hamilton, Madison county, was frequently carried to Hamilton, Livingston county, and they asked that the name of Hamilton station be changed.

The New York, Lake Erie and Western Railroad Company expressed its entire willingness to make the change and would as soon as a new name could be agreed upon. Subsequently the name was changed to South Lima.

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## XXXI.

C. H. HARTSHORNE V. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

May 16, 1890.

The complaint alleged that the New York, Lake Erie and Western Railroad Company had failed to maintain its fences in proper condition, where its lines passed through lands of the complainant in the city and town of Hornellsville on the western and Buffalo divisions of the Erie line.

The company replied two weeks later that the fences on the western division through the complainant's lands had been put in thorough repair and those on the Buffalo division would be in a very short time.

A paper from Mr. Hartshorne's counsel, made in view of the promise and performance of the company, asking a discontinuance of proceedings upon the part of the Board, was filed with it.

## XXXII.

## J. ARMSTRONG v. THE BUFFALO, ROCHESTER AND PITTSBURG RAILROAD COMPANY.

May 17, 1890.

This complaint was that the company had not properly maintained its fences where the road passed through his land.

The company in its reply set forth that since May 1st, 1889, the company had fenced thirty-five and four tenths miles on its line and that the record showed that 900 feet of fence had been repaired on Mr. J. Armstrong's lands. It was further said that especial attention would be given to Mr. Armstrong's fences and if any had been overlooked the mistake would be rectified.

As Mr. Armstrong has not informed the Board to the contrary, it is presumed the work has been done.

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## XXXIII.

## G. O. MEMBERY v. THE ROME, WATERTOWN AND OGDENSBURG RAILROAD COMPANY.

May 22, 1890.

Mr. Membery complained that there was below the railroad bridge at Camp Mills, on the lands of himself and a Mr. Crandall, 100 rods of fence on rock land that cattle could easily push over, and that there was great danger that a high wind would easily level on to the track.

The company replied that a prompt investigation showed that the fence was an unusually good one and needed staking at the corners only, which being done, satisfied Mr. Membery.

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## XXXIV.

## RESIDENTS OF GREAT VALLEY v. NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

May 24, 1890.

This was a request that the station then known as Great Valley, on the New York, Lake Erie and Western railroad, be changed to Kill Buck. Similarity in the name of a post-office and of a station on the Buffalo, Rochester and Pittsburgh railroad, seven miles away, it was alleged, led to much confusion in the delivery of the express and freight matter.

The company agreed to the change and it has been made.

## XXXV.

IN THE MATTER OF THE COMPLAINT OF GEORGE H. LOOK v. THE KANONA AND PRATTSBURGH RAILWAY COMPANY.

May 26, 1890.

Mr. George H. Look complains, under date of April the 10th, 1890, that the Kanona and Prattsburgh Railroad Company freighted three carloads of coal from Kanona to Prattsburgh, twelve miles; that there were sixty-six tons and 1,728 pounds in all; that he paid such road sixty-six dollars and seventy-eight cents as freight for hauling such coal twelve miles; that he paid under protest; that the president and superintendent of the road informed him that he could get the overcharge back; that ever since they have failed to pay him and now refuse to pay such overcharge.

That this freight was paid to such company November 6th, 1889; that he is informed and believes that ever since such date, this company has been freighting carloads of coal over such road and such distance of twelve miles at nine dollars per car.

This complaint having been forwarded to the Kanona and Prattsburgh Railroad Company, upon the 20th day of April, 1890, M. Pinney, president, replied that the "facts are when our road opened last October, before we had any rates established, George H. Look got some coal here from parties living in Bath. Our coal company and all, at that time, paid the same price for drawing in their coal. Our people have always been paying for freight on coal from Kanona, twelve miles, two dollars to two dollars and fifty cents, and even three dollars per ton, and we, as a railroad company, thought we ought to have one dollar per ton, and started off on that basis. Then we dropped off to seventy-five cents a ton, but these parties knew what they would be required to pay, as at that time that was the regular rate that all paid and until quite a number of weeks afterwards until we got regulated.

"In justification further, we have only a short road, twelve miles in length, which cost quite a sum. It is quite a road, and doing better every day. I, of course, don't know how you will look at this, but it does seem to me that we have done no one any injustice, and our greatest aim and object is to do right to all parties, and will add that we shall draw coal for George H. Look at the same price as any other party, if at the same time and under the same rates."

This answer was forwarded to the complainant, and on the thirteenth of May he replied, inclosing his affidavit that when he paid the sixty-six dollars and seventy-eight cents as freight money mentioned in the complaint, that Martin Pinney, the president of the railroad company, told him and led him to believe that if he would pay the freight on the coal at the rate of one dollar per ton, that the railroad company would give him a rebate or repay him as soon as the company fixed its permanent rates.

That Charles W. Renchan, superintendent of this railroad, also told him that if he would pay the freight at the rate of one dollar per ton would help the road and he would get a rebate, and it was intended that others were to get a rebate.

That it is not true that all persons paid the same rate of freight, to wit, one dollar per ton, for the estate of Van Zuyle at Prattsburgh had carloads of coal hauled over such road at the same time as the complainant and only paid sixty cents per ton over the full length of such road, and nobody paid such high freight as the complainant at the time such coal was hauled over such road, except perhaps for some small lots of less than carloads, and of which the complainant is not advised.

He also inclosed an affidavit of P. W. Sullivan, who states upon oath that he is acquainted with C. W. Renchan, ex-superintendent of the Kanona and Prattsburgh railroad, and on the 12th day of May, 1890, said Renchan informed affiant that said railroad company charged the Van Zuyle estate of Prattsburgh one dollar per ton for hauling coal over said road and then settled with said estate at the rate of seventy cents per ton for hauling such coal, and at the same time said railroad charged the Prattsburgh Coal Company only fifty cents per ton for hauling coal over such road, which coal was hauled at the time of the said Van Zuyle coal.

That said Renchan did not want to make a voluntary affidavit of such facts, but was ready and willing to so testify whenever legally called upon.

The law makes the road the judges of the relations which they bear to freight traffic and its development, provided the rates are reasonable and just. In this particular instance it would seem that the charges for carrying Mr. Look's coal were fixed before the regular rates were established; that subsequently the managers of the road believed them (by their own admission) to be too high, and thought a reduction of twenty-five per cent would be just and reasonable, and so fixed them.

From the affidavits submitted it would appear that the complainant believed that the charges would be subsequently adjusted to meet the regular tariff rate, and paid such charges under protest and with that understanding.

Other affirmations are submitted to show that other parties at or about the same time had their coal hauled for a rate corresponding with this reduction.

The Board is of the opinion that the complainant has made a case against the Kanona and Prattsburgh Railway Company, and that the road should promptly refund to said complainant, George H. Look, the difference upon his shipment between the dollar a ton charged and the seventy-five cents a ton subsequently established as the regular tariff rate, and so recommends.

## XXXVI.

IN THE MATTER OF THE PETITION OF RESIDENTS OF THE TOWN OF HOLLAND,  
ERIE COUNTY, v. THE WESTERN NEW YORK AND PENNSYLVANIA RAILROAD  
COMPANY.

June 16, 1890.

This petition, numerously signed, was lodged with the Board April 24, 1890.

It alleges in effect that there is now an old depot at the village of Holland, the location of which is and always has been of the greatest inconvenience to the people; that the petitioners are informed by the railroad company that a new depot is to be erected at or near where the old one stands, although they have exerted every effort to have the company erect this building a few rods south of the old one; that if the building is erected where the petitioners desire, it will be of the greatest benefit to the town's people in general, and the utmost importance to the business community.

A copy of this petition was duly sent to the railroad company.

On May ninth, Commissioner Rickard visited the village, after notice to parties in interest, and inspected the premises.

The fact was developed that if a new depot was built at or near the intersection of the railroad with Vermont street it would unquestionably serve the convenience of a considerable number of people better than the depot at the old site.

On the other hand, however, the depot at the old site had been there since the construction of the road, a period of eighteen or nineteen years.

The Board has always opposed depriving any considerable portion of a community of the facilities of a station which has been in existence for any considerable period of time. Such deprivation is against the law in many States.

The fact is also developed that three-quarters of all the freight shipped from the village is shipped by those people who prefer the old site.

The further fact was developed that before the contract was entered into with those favoring the old site, to construct the new depot thereon, the railroad company received a petition containing the names of 188 people for the old site, as against 128 for the new.

In view of the above facts, particularly that the station has been in its present situation for nineteen years, and of the strenuous opposition of a considerable number of persons shipping a large majority of freight, the Board would not feel justified in recommending a change of site of the station. The Board suggests, however, that the streets and highways be laid out so as to better serve the convenience of the south end of the village, and also of the farmers coming in upon Vermont street.

By the Board.

## XXXVII.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF WESTCHESTER COUNTY  
V. THE SUBURBAN RAPID TRANSIT RAILROAD COMPANY.

June 24, 1890.

This complaint, dated May 27th, 1890, numerously signed by residents of Westchester county, alleges as follows:

That the bridge of the said Suburban company across the Harlem river at Second avenue, New York city, enables *pedestrians* to cross the river, but not to gain access to the platform and structure of the Manhattan Elevated Railroad Company, Second avenue line, with which it is connected, so that it forms a part of it.

That were it so connected, it would be of very great service to the passengers by the Harlem river branch of the N. Y., N. H. & H. R. R. enabling them to go direct from the Harlem river station to the One Hundred and Twenty-ninth street and Second avenue elevated station and so take the elevated trains, whereas, the said passengers are now obliged, after crossing the bridge, to descend a flight of forty-five steps, walk a block and ascend another flight of the same height, reaching almost the exact spot which they have just quitted at the end of the bridge before they can reach the elevated train.

That a short platform of not over fifty feet in length could readily be constructed at such point as to enable the desired connection to be made without crossing any of the tracks on the bridge or elevated railroad structure, and would prove of exceeding value to the passengers aforesaid; but, although such request has at several different times and by different persons been made to the officers of the Suburban Rapid Transit Company, they persist in refusing to make any improvement or change whatever to meet the public need.

The complaint was duly forwarded to the Suburban Rapid Transit Company and a reply received from Mr. J. Hood Wright in which he says that the footways attached to the bridge, which is a railroad bridge only, were built by the company in accordance with the terms on which the park commissioners of the city of New York granted the right to build the bridge across the Harlem river.

That the company has no right to make any such attachment to the Manhattan Railway Company's structure, nor intention to do so, nor have the complainants any right to demand it:

That for some months the company maintained a station on the north side of the river on the N. Y., N. H. & H. R. R. property at a point where the charter did not compel it to do so, at a considerable loss to the company, for the purpose of carrying passengers across the bridge, but abandoned it because they preferred to walk rather than to pay for the service.

The premises complained of were examined by a Commissioner this Board.

It appears that the structure of the Second Avenue Elevated Railroad Company joins the structure of the Suburban Rapid Transit Company at the south end of the bridge, the platforms not being divided all. There is a footway upon the east side of the bridge, the end of which is about on the same level with the platform hereinbefore

described. This footway is connected directly with the station of the Harlem branch of the N. Y., N. H. & H. R. R.

There appears to be no reason why there should not be a connection made from this last described footway on the east side of the bridge to the platform of the Suburban elevated road, whence foot passengers could proceed to the gateway of the Second avenue elevated railroad structure without descending the steps at the end of the bridge, walking a block and then reascending the steps of the Second avenue line.

The only objection that has been presented to the Board is that possibly the Suburban company might lose a slight revenue (three or four dollars per day) from passengers who would prefer to walk across the bridge were this connection made, who otherwise might take the trains of the Suburban company at One Hundred and Thirty-sixth street or stations still farther north.

The Board does not deem, however, that this possible loss of revenue is a sufficient reason for so manifestly inconveniencing a large number of people, particularly those arriving at the depot of the Harlem branch, who, under any circumstances, walk across the bridge.

#### RECOMMENDATIONS.

The Board recommends that the Suburban Rapid Transit Company open a communication between the south end of the east footway of its bridge across the Harlem river and the platform of its elevated structure at said east end of its bridge in order to permit foot passengers crossing said bridge to pass immediately upon the platform of its structure and thence to the platform of the structure of the Second avenue division of the Manhattan Railway Company.

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### XXXVIII.

#### IN THE MATTER OF THE COMPLAINT OF THE BOARD OF TRADE OF ALBION V. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

June 30, 1890.

This complaint, signed by Isaac S. Signor, president, was lodged with the Board February 26th, 1890.

The purport of the complaint was that a brakeman, in the employ of the New York Central and Hudson River Railroad Company, was killed by striking a bridge over the track of this road, at the Clarendon street crossing, in the eastern part of the village of Albion; that, at other times, a number of men have lost their lives at this place, under similar circumstances. The complaint requested that "this ridge be removed and a grade crossing, with a flagman, take its place."

On February eleventh the Board communicated with Mr. Signor and said it "would be loth to make such recommendation since it has strenuously advocated the abolition of grade crossings in this State



ever since it came into existence." Also, that he inform the Board of the height of the bridge, in the clear, above the top of rails.

On February seventeenth a reply was received, stating that the distance from the rails to the bottom of bridge stringer was fifteen feet ten and three-quarters inches, and that the stringers were twelve inches deep.

This information, with copy of complaint, was sent to Hon. C. M. Depew, February twenty-fifth, with the request for any reason why this bridge should not be raised to a height to insure safety.

March sixth, H. W. Webb, third vice-president, in reply, stated that "Mr. Van Hoesen, our resident engineer, has made an examination and makes the following report: 'The bridge at Clarendon street, at Albion, is sixteen feet high. South of the road, the ground is high and would admit of raising the bridge four feet, but north of the railroad, the ground is low and the road is on a steep grade. By extending this approach, it might be possible to raise the bridge, and at the same time, make an easier grade on the approach. At the present time, many people are opposed to this bridge, on account of the steep grade.'

"The chief engineer reports to me that the only lack of safety the bridge presents is in the case of brakemen on top of cars. This occurs, in a number of similar cases, all over the road, and the protection to men is by bridge guards. There are so many places where it is impossible, without going to an enormous expense, to secure a uniform clearance of twenty feet, that it is impossible, any longer, to regard this as a fixed standard. Moreover, that height of clearance is not now safe to men on top of all cars, owing to the great height to which furniture and refrigerator cars are now being built. Many of these cars are fifteen feet high and many even higher."

In a letter to the Board of date of May twenty-seventh, J. M. Toucey, general manager, says: "In reply to your letter of twenty-second ult., respecting the Clarendon street bridge' at Albion, will say that, after a thorough examination, I do not think the bridge should be raised. This bridge is of the usual height, that is, the same as bridges heretofore have been, and has been there since the road was constructed. 'Ticklers' are provided to prevent accidents, and they ought to answer the purpose as well as at other bridges upon this line which are of the same height."

A personal examination of this crossing was made by Commissioner Rickard on May twenty-ninth, and it was found that the statements made by the complainant, as to the height of the bridge and the number of fatal accidents at this point, were correct. It was also found that the report of the resident engineer was correct as to the location.

The only question as to the raising of this bridge is the expense of raising the approach on the north side, and the damage, if any, to abutting property owners resulting therefrom.

The street, approaching the bridge, runs at right angles, and level until within about 100 feet from the crossing; from this point to the overhead crossing, the grade is, at least, ten per cent.

It was also observed that the land on both sides of the highway north of the railroad, from the foot of the approach to the bridge to

several hundred feet north, is higher than the street. It is believed that, by extending this grade to a location known as "Watt's stone yard," about 500 feet from the foot of the present steep approach, the bridge could be raised four feet, making it much easier for teams to pass over. From the fact that the walks, on both sides of the street, are now higher than the roadway, it will be seen that the filling up of the latter to the required grade would not cause very serious damage to abutting property owners.

South of the railroad the ground is high, and elevating the bridge four feet could be done at a slight expense.

The location of the crossing is such that the removal of the bridge and the substitution of a grade crossing would not be advisable, even if the crossing should be protected by a flagman.

An examination of the "ticklers" shows that the arm erected at the west side of the bridge and south of the track to carry the suspension ropes to warn trainmen, is twenty feet high; that the last rope at the end of the arm is near the center of the track and if a trainman was standing on a car north of the center, there would be nothing to warn him of danger. It was also observed that these ropes were suspended in such a manner that the ends of some were quite close together, while others were apart enough to allow a man's head to pass through without touching. On the east side the arm projected more, but the ropes were about in the same condition. These ropes should not be over four inches apart; they should be examined oftener to see that their proper position and length is preserved.

The fact that furniture and refrigerator cars are now in use of over fifteen feet in height, and some bridges are scant sixteen feet high, merits thoughtful consideration.

Brakemen are liable, in the discharge of their duty, to be called to the deck of cars at any moment, by signal from the engineer, for the purpose of stopping the train; they must, of necessity, pass from car to car to set the brakes, and owing to the large number of cars now drawn in freight trains, it would be necessary for them to pass over many cars to effect a stop. If while in the discharge of this duty, on top of one of these cars, a bridge having a clearance of but sixteen feet is approached, what protection is there for the brakeman, whether notified by bridge-guards or otherwise? There is no position he can place himself in, even by lying flat, that will insure absolute safety in passing under such a structure.

It may be said, however (and it has some force), that having some bridges on the same line twenty feet high, and others but sixteen feet, would have a tendency to cause more accidents, but it would seem that every structure that cleared a man safely was one step forward in the right direction.

#### RECOMMENDATIONS.

The Board recommends that the New York Central and Hudson River Railroad Company raise the bridge in question at least four feet, and grade the approaches thereto on both sides, so that the ascent will not exceed eight feet in 100.

## XXXIX.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF PAINTED POST & THE  
NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

July 8, 1890.

A decision and recommendation of the Board in this case was made on the 22d of April, 1890.

Section six of the act creating the Board of Railroad Commissioners (*i. e.*, chap. 353 of the Laws of 1882) provides that "if a corporation refuses or neglects to make such repairs, improvements and changes within a reasonable time after such information and hearing, and shall not satisfy said Board that no action is required to be taken by it, the said Board shall present the facts in the case to the Attorney-General for his consideration and action."

Under the provisions of the last mentioned section, Messrs. J. A. Buchanan and D. C. Robinson, counsel for the railroad company, made an urgent appeal to the Board for a rehearing of the case, in order to satisfy it that no action was required to be taken by the company.

The request was granted and a rehearing had, after due notice to the complainants, at the office of the Board, June 24, 1890.

A good deal of the same ground as before was again gone over by both the complainants and the railroad company.

The principal point made by the counsel for the company was that the freshets of June and November, 1889, were of a phenomenal character; that they were not likely to occur again, and that no railroad company was required under the law to make provision against such unusual freshets.

In this position the Board sustains the railroad company. Its recommendations of April the twenty-second were not intended to meet cases of such unusual freshets as occurred in June or even in November, 1889. Indeed, it distinctly states so on page 2 of the decision, where it uses the language, "it is of the opinion that in cases of such severe freshets as that of June, 1889, the inundation of a large portion of the valley of the Chemung would be inevitable whether the railroad embankments were removed or not." The Board goes on to state, however, "on the other hand there can be no doubt that there is a likelihood of freshets of considerable magnitude constantly occurring, the water of which could be carried off with little or no damage to the citizens of Painted Post were there a free egress for the waters in the natural channels of the Cohocton and Chemung rivers."

The counsel for the company at the hearing also appeared to think that were the company to conform to the recommendation of the Board and open its embankment near Painted Post, it might be construed as an admission by the company that it was responsible for the damages done by the June and November freshets.

The Board does not deem that this apprehension is well founded. One of the principal objects of the law creating the Board of Railroad Commissioners was that the Board should make such recommendation to railroad companies as would prevent the recurrence of accidents.

disasters of any kind, and it appears to have been the intention of the Legislature that such recommendations should not have a retroactive effect, unless it could be shown that the railroad company had been clearly guilty of negligence; for section eight of the law hereinabove quoted provides that "No personal examination, request or advice of the said Board of Railroad Commissioners, nor any investigation or report made by the same, shall have the effect to impair in any manner or degree the legal rights, duties or obligations of any railroad corporation," etc.

It was not the intention of the Board, by its recommendation, to aver or intimate that the railroad company had been guilty of negligence in the construction of its embankment previous to the freshets of June, 1889.

Since that time, however, the conditions have changed. It has been demonstrated to the satisfaction of the Board, both by these freshets and by the freshet of May, 1890, that there is now constant danger of high water in the Chemung river and its tributaries near Painted Post—a danger that does not appear to have existed previous to last year, certainly since 1865.

Since the hearing, viz., on July second, two of the Commissioners visited Painted Post and the surrounding country and made a careful examination of the same. They were even more impressed than before with the necessity of the company and the community taking the action recommended in the decision of April the twenty-second.

There appears to be no doubt that the stream alluded to as the "freshet channel" of the Chemung river, which runs parallel with that river just above the Erie embankment, should not have been obstructed. It is true that this channel was improved and opened a number of years ago to run logs from a point still further away to a mill that stood just below the present embankment, but the Board has no doubt that there was always water running there to a greater or less extent and for this reason it was selected as a log run.

Messrs. Buchanan and Robinson contend that were the channel of the Chemung river narrowed and deepened, there would be no necessity for overflows at any point where damage can be done. This may be true, but the channel is not narrowed or deepened, and who is to do it? Until it is done it is certainly but right, if not the statutory duty of the railroad company, to open its embankment at the point indicated in the decision.

An affidavit of Col. S. R. Johnson, roadmaster, was submitted, to the effect that in his opinion the high waters of this year were due to the overflowing of the Tioga river at a point considerably further west, near Erwin's station, and not in consequence of back water from the Chemung; that had the embankment at Erwin's been two feet higher the water would not have broken through at that point, and there had been no embankment at Erwin's the water would have passed through the depression at that place in much larger volume and run down to Painted Post.

The Board is inclined to believe that Col. Johnson's view as to the effect of the embankment west of the Cohocton is correct, and that the embankment is a safeguard rather than a menace to the community.

The Board is also of the opinion that the railroad bridge across the Cohocton is of sufficient span. In this connection it draws the attention of the inhabitants of Painted Post to the fact that the highway bridge across the Cohocton above the railroad bridge does not provide nearly so large an opening as the railroad bridge, and suggests that careful watch be kept of the high waters on the Cohocton to see whether the approaches and abutments of this highway bridge do not form a serious obstacle to the flow of the river. In case they do there is no question but what they should be removed and the highway bridge lengthened.

Just east of the Cohocton river the Board was impressed with the fact that a very little improvement to the culvert under the Erie road near the intersection of the railroad embankment with the highway, might prove of very great benefit in cases of overflow from the Cohocton.

It appears that a small portion of land belonging to Badger, bounded by the highway on the north, the Cohocton on the south and west, and the Erie embankment on the east, was overflowed with water to a considerable depth, before it flowed off through the culvert there constructed. The Board deems that this culvert should be deepened somewhat and a ditch dug westerly a few feet so as to admit of accumulations of water in this particular spot being drained off, and so recommends.

It would be a very desirable thing, in the opinion of the Board, to construct another culvert under the railroad embankment and the highway embankment just east of their intersection at this point.

There are a number of other places which the Board does not mention specifically, which could easily be improved, at small expense, by slightly raising the banks of the river at certain points, and of constructing culverts at others, which if done, would protect the community from the dangers of inundation in all ordinary freshets.

The Board does not specifically recommend just where these are, but calls the attention of the railroad company and the community alike to the existence of such places, in the hope that an intelligent co-operation may be exercised in the matter.

#### CONCLUSIONS.

For the above reasons the Board feels constrained to, and does, renew its recommendation of April 22, 1890, to wit:

The Board recommends that the New York, Lake Erie and Western Railroad Company open its embankment for a distance of about 100 feet at the point where it now intersects the freshet channel of the Chemung river, said point being at a distance of about 700 feet from the Chemung river bridge, and span said opening with a bridge.

*Second.* The Board recommends that the channel of the Cohocton river be cleared of obstructions from a point about 400 feet above the Erie railroad bridge to its confluence with the Chemung, the expense thereof to be borne by the townships benefited.

## XL.

J. S. VAN DUZER v. THE ELMIRA, CORTLAND AND NORTHERN RAILROAD COMPANY.

July 14, 1890.

Mr. Van Duzer complained that a bridge of the company near Horseheads effectually dammed back the water of Newtown creek in times of floods, causing the overflow to pass over and tear up the highway and to flood the flats about the village; that the bridge was constructed on piles so close together in the creek as to gather and stop drift-wood and make a complete dam; that the opening under the bridge was inadequate even if there was no piling.

The company's answer was that all the trouble was due to an unprecedented flood at the time and that Mr. Van Duzer had brought suit in the courts to recover damages. On the 13th of December, 1889, a member of the Board personally inspected the point and gave hearing to complainants and representatives of the company. The outcome of that hearing was that the company agreed to put up another bridge which should be of a single span of not less than sixty feet. In due course of time the Board was informed that the work was begun, but simultaneously the Board was informed that it was the intention of the company to erect a two-span bridge with a pier or abutment in the center of the creek, with a span on either side of thirty-nine feet. The Board demanded that the company should send a blue-print plan of the proposed bridge and upon receiving it found that such was their intention. The Board addressed the following communication to the company:

ALBANY, July 14, 1890.

ALBERT ALLEN, Esq.,

*Gen'l Supt. Elmira, Cortland and Northern R. R. Co.:*

SIR.—The blue print, being an answer to the communication of this Board of July seventh, asking what the total span of the bridge at Newtown creek is, is received.

The Board observes that there are two clear spans of thirty-nine feet, and that there is a pier in the middle of the creek, built on piles, five feet in width.

The Board regrets that the creek was not bridged by one clear span as was the understanding had at the conference with a commissioner last December.

It is feared that a pier in the middle of the creek will serve as an obstacle to the free flow of water and may cause an overflow.

Inasmuch, however, as the construction has proceeded to the point that it has, the Board will suspend action in the matter for the present. Should complaint be received, however, that the pier does cause an overflow, the Board will be obliged to summarily recommend its removal and the substitution of a clear-span bridge.

## XLI.

## THOMAS FITZGERALD v. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

July 14, 1890.

Thomas Fitzgerald, of Albany, complained that on the fourth day of July ultimo, he purchased a ticket at Elmira from the ticket agent of the New York, Lake Erie and Western Railroad Company to Albany, paying for the same \$5.10. That he rode from Elmira to Binghamton on the ticket and then took the Albany and Susquehanna train for Albany, but that on the latter train the conductor refused to accept it on the ground that it was a special ticket sold at a reduced rate and good only for the day upon which it was issued, and compelled Fitzgerald to pay \$4.35 in addition to that already paid.

The company replied that there was no intention to deliberately mislead the complainant, and that while the agent at Elmira could not recall the incident of this particular purchase, yet he was sure he explained as he did to all who purchased such tickets. The company offered to refund the money overpaid and instructions have been given to that end.

## XLII.

## IN THE MATTER OF THE APPLICATION OF RESIDENTS OF WESTCHESTER COUNTY FOR A RECOMMENDATION OF THE BOARD FOR INCREASED PASSENGER SERVICE ON THE HARLEM RIVER BRANCH OF THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY.

July 15, 1890.

This application, dated May the twenty-ninth, and signed by sixteen persons, was duly lodged with the Board.

It asserts that at no time since the Harlem River branch was opened for travel has the number of trains thereon been such as to meet the requirements and need of the public, and that the inadequate nature of the present time-table will be found upon examination, showing, as it does, that New Rochelle on the main line has twenty-two trains daily from New York, while the Harlem River branch has but fourteen to serve an equal population considerably nearer New York city—an arrangement which has the natural result of discouraging settlement along the line of the Harlem River branch, while New Rochelle is rapidly growing.

That the present trains are so arranged that from Westchester station between 7 and 9 a. m. there are but three trains into New York city, at 7.12, 7.54 and 8.59, where there should be at least two more at about 7.30 and 8.25; and that between 6.40 and 10.30 p. m. there only one train out of New York, at 8 o'clock, whereas at such a period of the day there should be trains at about 7.20, 8.30 and 9.30.

That in March, 1890, a petition signed by the present petitioners and over 100 others, requesting a train from the Harlem River station at 7.30 p. m., and that the present train leaving there at 8 be made

8.30 instead, was forwarded to the president of the company; that no attention has been paid to the request.

The petitioners then request the intervention of the Board.

To this complaint the company replied, through its president, Mr. Charles P. Clark, to the effect that since the opening of the branch in 1873 the company had from time to time increased its local train service to accommodate the increasing population in Westchester, as shown by the following table :

	Population of Westchester (town).	No. trains each way.
1873 (about) .....	6,249	3
1880 .....	6,789	8
1882 (about) .....	6,965	12
1890 (estimated) .....	7,671	14

That the regular and commutation passenger receipts on the Harlem River branch for the year ending September 30th, 1889, were \$98,139.92, or only eighty-seven cents per train mile; that at seventy-five cents per train mile, the cost of the addition of five trains to the Harlem River branch service as asked for, would be more than \$28,000 a year.

That it is evident, therefore, that Westchester is well served in the matter of railroad facilities.

That the regular and commutation passenger traffic on the Harlem River branch yields no fair return on the capital invested, although it is steadily increasing, and that the company expects to increase the service correspondingly, but that to add to the train mileage now, as petitioned for, would be an imprudent management of the property at the expense of the owners of the railroad, however much it might benefit real estate along the line of the road.

The Board finds, upon an inspection of the time table, that fourteen trains pass over this road each way every week day, beginning at 12.10 A. M. (night), and ending at 10.30 P. M.

This appears to the Board to be a sufficient service and it would not feel justified, upon the facts before it at present, in recommending an increase thereof.

By the Board.

### XLIII.

#### STOWELL & CORBIN v. THE WESTERN NEW YORK AND PENNSYLVANIA RAILROAD COMPANY.

July 19, 1890.

The complainants alleged that last winter they purchased standing oak timber, which they drew to Gordon's mills and had it shaped into switch timber and ties seven by eight inches square and from eight and one-half to seventeen feet long. Before drawing the timber when it was cut, they were told by the agent at Portsville that the rate on timber from Gordon's mills to Olean, five miles, would be twenty-five cents per ton. Seven cars were shipped, and the rate charged was sixty cents. Upon protesting the complainants were



informed that the lumber was shipped as switch timber and ties, and the rate thereon was sixty cents. Appeals to the general office met with refusal to consider it.

The company promptly replied that the error was made by the agent, who had overlooked a circular of January 20th, 1888, which included railroad ties in the lumber tariff, and informing the Board that the overcharge had been refunded. Subsequently the complainants similarly informed the Board.

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#### XLIV.

#### RESIDENTS OF DALTON V. THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY.

July 22, 1890.

This was a complaint of a dangerous crossing on the New York, Lake Erie and Western railroad at Dalton. It was alleged that a train approaching it can not be heard or seen by a traveler on the highway until right on the track; that the crossing was fourteen feet above the grade; that a large mill had been erected recently near the crossing which not only obstructed the view but made such a noise that the trains could not be heard. Either an under-ground crossing or a flagman was asked for.

The company denied that the crossing was dangerous, and said it was located upon a straight stretch of track with a clear view in both directions except from the south, when within 200 feet of the track the view was obstructed by the mill—a mill which was not permitted to be erected, there until the company had received a petition signed by nearly every citizen in Dalton asking that it be permitted to be built there.

The complainants replied by declaring the absolute contrary of the railroad's position.

A member of the Board made a personal examination of said crossing, and upon hearing his report, in which it was stated that if the railroad company would build the overhead crossing the residents of Dalton would remove the approaches at its own expense, the Board submitted the proposition to the company.

To this the company replied that a careful examination had shown that to do as it was desired would be to involve the company in an expense of \$7,500, which sum the company had not, but if the Board deemed that protection was necessary the company would put in an electric bell at the crossing.

To this the Board replied that it believed that the proposition the residents was a fair one, and that the point was one where an under crossing should be constructed, but "as there appears to be no 1 at present to compel the separation of grades at highways in opposition to the wishes of the railroad company the Board deems that construction of an electric bell at this point and also of strong signs on the highway approaches would be better than nothing."

## XLV.

## R. S. WILDER v. THE BUFFALO, ROCHESTER AND PITTSBURG RAILROAD COMPANY.

July 22, 1890.

Mr. Wilder complained that where the railroad ran through his lands the fence was down and he was thereby deprived of the use of his pasture land, as he could not turn his cattle in it.

The company promised immediate attention and subsequently informed the Board that the fences were repaired as desired by Mr. Wilder.

## XLVI.

## ROBERT LENOX BANKS v. THE DELAWARE AND HUDSON CANAL COMPANY.

July 25, 1890.

This complaint alleged the dangerous condition of the Glens Falls branch of the company complained of and set forth that because of such condition the palace car in which he, with his family, was riding, was precipitated into Lake George on Thursday morning, the 26th day of June, 1890; the complainant praised the intelligent and thoughtful action of the trainmen at the time of the accident and expressed the opinion that but for the fact that the train was moving at a low rate of speed there would have been great loss of life. He complained further that the practice of making up time on that branch was one fraught with dangerous consequences; and further of the practice of carrying blasting powder on passenger trains. The complainant attributed the accident to the rotten condition of the ties, as they could not hold the rails or fish-plates.

In reply the company denied that the branch was in a dangerous condition to operate, and while admitting that the alignment of the track was not good, informed the Board that the company had for some time been engaged in taking out the reverse curvature and propose to improve the alignment as far as possible; it asserts that the condition of the ties and rails was excellent; that it was difficult to explain the cause of the accident and believed it to be attributable to the condition of the rolling stock rather than that of the track. As to running at a high rate of speed the Board was informed that orders had been issued not to exceed schedule time; and as to the carrying of blasting powder on passenger trains the Board was informed that the rules were imperative against such carriage, and if there was any on board the wrecked train, it was there surreptitiously.

The Board ordered an immediate inspection of the branch by its inspector and promptly received the following report:

*to the Honorable the Board of Railroad Commissioners:*

GENTLEMEN. — Agreeable to your instructions, I made, July fourth, an examination of the Glens Falls branch of the Rensselaer and Saratoga Railroad, operated by the Delaware and Hudson Canal Company, between Port Edward and Glens Falls, a distance of six miles. With one excep-

tion, the truss bridging consists of iron, as reported in 1888. There is one plate-girder deck bridge of four spans, and the minor openings have T-rail girders. There is one low through Howe truss over a railroad used for hauling logs from the river to a saw-mill, which occasions some apprehension of danger from fire; otherwise no objections can be made, as it is well supported by bents and looks to be in fair life of timber. West of this bridge is a trestle of five bays forming an under farm-crossing. The floor is strong and in good order. At Fort Edward, approaching the plate-girder deck before referred to, are thirteen bays of trestle all of which are in fair condition. There are a few minor openings which have rubble masonry abutments, T-rail girders, and all have a strong floor. Quite a number of sleepers were noticed as too old to properly hold track in gauge, but as a whole, especially on curves, they may be said to be in very fair life. The work of renewing ties was in progress, and it is suggested be continued until every decayed or too deeply cut-in tie be renewed. The track is in very good adjustment and fences well maintained as a whole. The depots at Fort Edward, Sandy Hill and Glens Falls, are frame structures, in good condition and comfortably furnished.

Between Glens Falls and Caldwell, a distance of ten miles, a very careful inspection was made by walking over the track. This portion of the branch is of more recent construction, and has sharp curvature and at westerly end very heavy grade.

There is an excessive amount of curvature. Between Bloody Point and Caldwell the work of reducing curvature by change in location and regrading of roadbed is now in progress. The track is laid with steel rails which have been in use at other points, as shown by numerous ends having one-half of head of rail broken off, but in relaying are carefully turned to present an unbroken flange side. One rail was noticed as having one-half of head gone for six inches in length on inside. The turning, or better, the replacing of this rail is undoubtedly an oversight on the part of section men, as the breakage appears to be of recent occurrence. Over 200 joints are found (and in fact I ceased to count as it was so general) without a full complement of bolts. Mostly one was omitted, but quite often there was but one bolt in each rail. Angle-bars and fish-plates (mostly the latter) are used for rail-fastenings. The angle-bars quite frequently were found split off between the upright and base, caused apparently by the creeping of rails where angle-bars were spiked in their slots. All missing bolts should be restored and the rail-fastenings fully bolted, as undoubtedly they never were in place since the track was laid with steel. It would also be much stronger and safer to replace all the rails broken at ends, which are but few in number, and such of the rails as are most worn, particularly on curves. A careful examination was made of the sleepers, the renewals of which appear to be progressing. There are a large number of good ties delivered in piles along the road (possibly for the new second track between Gansevoort and Whitehall), but which could be aptly used on this branch, and it is respectfully suggested that all ties too much worn, *i. e.*, cut into by the rail, or by decay, which have become unable to strongly support the rail or hold track firmly in gauge, be renewed as speedily as possible.

There were found too many of the sleepers thus overworn or decayed. Both wear and decay are equally divided as elements of destruction of these sleepers—possibly more worn out than decayed. The section of at least one-half the ties in the track is quite small, too much so for the volume of traffic, as they were found largely cut in by base of rail. Ties were noticed thus affected as deeply as two inches, leaving but four inches thickness of tie, and of that a part decayed. Seventeen sleepers are used per rail length of thirty feet and no addition for small ties was noticed. The train service is frequent and heavy during the summer months and strongly tied track, especially on sharp curvature, is very necessary. It would appear to a disinterested person that the sleepers had been held too long without renewal on some portions of this branch. Your inspector did find ties from which he could readily draw the spike with his finger but strong ties were adjoining, and it was on portions of track where they appeared to have been no renewal as yet this season. A stronger maintenance generally would be very desirable for actual safety, of this there can be no question. At the point on Glen lake, where the recent derailment

occurred, were mostly found new sleepers. Just what their condition was before the accident your inspector is unable to say, but looking at a pile of old ties near by and at those in the track each side of point of derailment, they look as if they had been retained in the track too long for such a point of sharp reverse curvature and short intermediate tangent. Stakes were noticed, indicating a purpose to modify the alignment, as is now being done at the west end of the branch where the improved alignment is marked.

The openings between Glens Falls and Caldwell were examined and each found in excellent condition. The depot at Caldwell and docks and train-sheds are the same as heretofore reported, and now in good condition.

Respectfully submitted,

(Signed.)

THOMAS W. SPENCER,  
*Inspector.*

• ALBANY, July 14, 1890.

The Board thereupon recommended that the repairs and improvements, shown to be necessary by the inspection, be made immediately, and the Board was promptly informed that the recommendations would be conformed to.

## XLVII

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF THE TOWNS OF SCHUYLER AND FRANKFORT V. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, AS TO A DANGEROUS CROSSING ON THAT ROAD FOUR MILES EAST OF UTICA.

July 29, 1890.

This complaint, signed by over 100 residents of these towns, was lodged with the Board May twentieth, alleging "the four-mile crossing east of Utica is dangerous and unsafe (since the removal of the men and time indicators) for persons who are obliged to cross the tracks, on account of the curve below the crossing and the difficulty of seeing approaching trains from the highway," and asking that flagmen be placed at this point.

A copy of the complaint was sent to Hon. C. M. Depew on May twentieth, and on May thirty-first, Theodore Voorhees, general superintendent, in reply thereto says:

"Some years ago a man was put at this point, more especially to attend an indicator for train service, as being a point midway between Frankfort and Utica, and incidentally only, to look after the crossing. Since that time there has been a junction made between the West Shore and our road at Schuyler's Junction, and the indicators were removed from the crossing in question to the junction."

An examination of the locality was made by a member of the Board July twenty-third. It was found that the crossing in question was at right angles with the railroad; that approaching the railroad from the south over this highway, the view of trains is obstructed by trees, second growth saplings and willows until a point about sixty feet from the tracks where trains going west can be seen about 850 feet, and as one approaches the track the distance a train can be seen increases very fast.

Approaching the railroad from the north, willows obstruct the view some until about sixty-five feet from the tracks; from this point is a

clear view of several miles. The view of all trains from the west is ample.

That every crossing at grade is to some extent dangerous, must be admitted, and the fact that this one had been protected for years by a flagman, might cause travelers to neglect the necessary caution in approaching it. It is believed, however, that if the large trees east of the highway and south of the railroad were cut down about 30 feet south the entire length of the woods, and if the willows on the east side of the highway, north and south of the tracks, be cut down to a point about 100 feet from the tracks, this crossing would be as safe as hundreds of others not protected by a flagman.

It was noticed also that the approaches to the crossing were short and steep, and on the south side were covered with light cinders, making it almost impossible for teams with heavy loads to pass over. While this examination was in progress a team drawing a load of stone was stalled with a portion of the wagon on track No. 1.

An extension of these approaches for at least fifteen feet should be made and the surface covered with gravel.

The Board recommends that the authorities of the towns interested cause the removal of the willows on the south side of the highway; that the officers of the New York Central and Hudson River Railroad Company confer with the owner of the woods south of their road, as to the matter of cutting down trees and removing brush thirty feet south of the present line, and that the approaches to the crossing should be made easier for heavy draught wagons.

## APPLICATIONS FOR CHANGE OF MOTIVE POWER.

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### I

IN THE MATTER OF THE APPLICATION OF THE BUFFALO STREET RAILROAD COMPANY ON BEHALF OF ITSELF AND OF THE BUFFALO EAST SIDE STREET RAILROAD COMPANY, FOR THE APPROVAL OF THE BOARD OF A CHANGE IN MOTIVE POWER FROM HORSES TO ELECTRICITY, UPON THAT PORTION OF FOREST AVENUE BETWEEN DELAWARE AVENUE AND NIAGARA STREET, IN ACCORDANCE WITH CHAPTER 531 OF THE LAWS OF 1889.

November 11, 1889.

This application, dated the 16th day of October, 1889, was duly lodged with the Board.

A public notice of hearing was given through the press of Buffalo, and such hearing was had at the office of the Board in the city of Albany on October 29, 1889. The company was represented by C. M. Bushnell, counsel, and Henry M. Watson, president. The opposition to the change was made by O. C. Dewitt, counsel, and Michael Healey.

The applicant presents affidavits from John H. Lodewick and Nicholas J. Mock, assessors of Buffalo, to the effect that the total valuation of the property abutting upon Forest avenue, between Delaware avenue and Niagara street, is \$1,529,170; that the names of the owners of more than one-half in value of the property abutting upon said route, viz., \$1,331,060, appear upon the petition in favor of such change.

It appears that among the owners of the property bounded on that portion of the railroad as to which a change of motive power is proposed is the State itself, which holds title to a tract of land in Forest avenue of the estimated value of \$1,160,710. This land is the site of the Buffalo State Asylum for the Insane.

The board of managers of the asylum have given their consent to the proposed change. The point is raised by the remonstrants, however, that they have no power to grant such consent, inasmuch as chapter 531 of the Laws of 1889 provides that such consents shall be given by the owners of the property. This question has been referred to the Attorney-General by the Board and he has rendered an opinion, a copy of which is hereto attached, to the effect that the board of managers have not the right to grant such consents.

If the position is taken that property not consenting is to be regarded dissenting, it would then appear that the dissents are overwhelming as compared with the assents. In view of the fact, however, that there is a lack of provision in the law with regard to who shall give assents for State property under such circumstances, it would seem to be but equitable that in the consideration of the subject the

The application sets forth that the Rochester Railway Company has succeeded to all the rights, privileges, franchises and property of the Rochester City and Brighton Railroad Company, the Crosstown Railroad Company, and the South Park Railroad Company, of Rochester, and then applies for the approval of the Board of a change of motive power from horse power to electric power and to the making of such changes in the construction of the road and road-bed of such company necessary to enable the company to operate its road by electrical power.

That the company desires to use for the operation of all its lines the single trolley overhead electrical system.

That the company has in operation about forty-five miles of railroad and that it is its intention to equip all of its main line with electrical power during the coming spring and summer, and before the expiration of one year thereafter to have its entire system changed.

That the predecessor of this company obtained the consent of the common council to the change of motive power on the eighteenth of February last, after an extensive discussion; that the interests of the city and the public are fully protected by the contract entered into between the city and the company, which contract makes provision in explicit terms for the kind of poles, intensity of current, rate of speed, number of men on each car, removing of snow and ice, paving of streets, interference with sewers, percentage of earnings to be paid to the city, etc.

The company furthermore submits the affidavit of L. A. Platt, M. J. Maher and J. Gerling, city assessors, to the effect that:

"The Rochester Railway Company is the street railroad corporation operating all of the lines of street railroad in the city of Rochester.

"That the several lines operated by said company are as follows:

- "1. North and West Avenue line.
- "2. Lake, South and Mount Hope Avenue line.
- "3. North St. Paul Street and Caledonia Avenue line.
- "4. University and Lyell Avenue line.
- "5. Exchange and Hudson Streets line.
- "6. Allen, Jay and St. Joseph Streets line.
- "7. Main and Park Avenue line.
- "8. Monroe Avenue line.
- "9. Clinton Street and Plymouth Avenue line.
- "10. East Main Street line.

"That upon each of the aforesaid lines of street railroad, said company has obtained the consent of the owners of more than one-half of the property thereon, at its assessed valuation, to the change of operation of its railroad from horse power to electric power, such consents being evidenced by instruments in writing, duly executed and acknowledged by the owners of the property along said lines."

The affiants then give in detail the assessed valuation on each of the above-mentioned lines, and also the consents obtained. The assessed valuation of all the property on the lines of the railroad certified to be \$89,273,262; total value of property, the owners of which consent to the change, \$55,206,400.

In view of the above recited facts, the Board deems that it is justified in approving, and does hereby approve of a change of motive

power by the Rochester Railway Company from horses to the overhead single trolley electric system, with the condition, however, which is made part of this approval, that the conditions imposed by the resolutions of the common council of the city of Rochester on February 18th, 1890, upon the Rochester City and Brighton Railroad Company, shall be applicable to all the lines operated by said Rochester Railway Company.

The above approval is also given to such extensions of the railway system of this company as may be made from time to time in the outlying districts of Rochester; provided, always, that the consents of the local authorities and a majority in value of the abutting property owners on the streets where such extensions shall be made shall have been first obtained.

By the Board.

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### III.

IN THE MATTER OF THE APPLICATION OF THE UTICA AND MOHAWK RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO ELECTRICITY, IN ACCORDANCE WITH CHAPTER 531 OF THE LAWS OF 1889.

April 29, 1890.

This application, dated April ninth, was duly lodged with the Board.

After public notice in the press of Utica a hearing was had at the office of the Board on the twenty-eighth day of April. The railroad company was represented by James F. Mann, president. No appearances were made in opposition.

An affidavit of P. J. McQuade, city clerk, was filed to the effect that the permission of the common council had been granted on the 11th day of October, 1889.

An affidavit of James F. Mann was also submitted to the effect that he had carefully examined the list of property owned, as shown by the tax books in the office of the treasurer of the city of Utica, on the line of the said Utica and Mohawk Railroad Company; that the total valuation of said property did not exceed the sum of \$475,000; that the consents (which were duly presented to the Board for inspection) were duly acknowledged according to law, and showed that the consents of the property holders to the proposed change amounted to the sum of \$352,800.

In view of the above recited facts, the Board deems that it is justified in approving and does hereby approve of a change of motive power by the Utica and Mohawk Railroad Company from horse power to the overhead single trolley electric system on all the railroads operated by said company, with the following conditions, however, which are made part of this approval:

*First.* The rate of speed shall not exceed that to be definitely fixed by the mayor and common council of the city of Utica, or the board of trustees of any village through which said railroad may run, on the streets within the respective jurisdictions of said municipal and village authorities.



*Second.* The poles from which the wires are to be suspended shall be of a construction and height appropriate to the streets upon which they are erected, so as to impair the use and appearance thereof to the least possible extent, and before erection shall be approved by the municipal or village authorities respectively.

*Third.* No car shall be run with less than two men to operate it, i. e., conductor and brakeman.

*Fourth.* The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents on the wires of other companies, whether telegraph, telephone or otherwise.

#### IV.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO STREET RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE IN MOTIVE POWER FROM HORSES TO ELECTRICITY ON THAT PORTION OF NIAGARA STREET IN THE CITY OF BUFFALO BETWEEN MAIN STREET AND HERTEL AVENUE, IN ACCORDANCE WITH CHAPTER 531 OF THE LAWS OF 1889.

July 8, 1890.

This application was duly lodged with the Board. A public notice of hearing was given through the press of Buffalo, and such hearing had April 29, 1890, at 10 A. M., at the office of the Board in Albany. The company was represented by Henry M. Watson, president, and H. W. Box, Esq., counsel. The remonstrants were represented by Hon. J. M. Humphrey and Hon. D. N. Lockwood.

The proportion of consents, withdrawals and dissents not being in a condition to enable the Board to reach a determination, an adjournment was had until Tuesday, May the thirteenth. At that date the company was represented by Mr. Box; the remonstrants by Mr. Lockwood.

In addition to the consent of the local authorities the company claimed to have procured the consents of abutting property holders to the amount of..... \$2,315,030  
And the consent of city property to the amount of..... 470,570

Total..... \$2,785,600

Mr. Lockwood, on the other hand, presented a paper, to the effect that property owners who had formerly consented had withdrawn to the amount of \$1,061,265.

The assessed valuation of property on Niagara street between Main street and Hertel avenue is certified by the assessors to have been for the year 1889, \$4,429,170. A majority of consents would \$2,214,586.

Original consents claimed by company..... \$2,315,  
Consents of city property..... 470,

Total..... \$2,785,  
Withdrawals..... 1,061,

Leaving original consents..... \$1,724

Reconsents claimed .....	\$313,930
Additional consents .....	26,430
Total consents to May thirteenth .....	<u>\$2,064,695</u>

It will be seen from the above figures that the amount of consents necessary is \$2,214,586; that the company originally secured (including the consent of the city property) \$2,785,600, or an amount considerably in excess of a majority. From these consents, however, the remonstrants claimed that the withdrawals, amounting to \$1,061,265, should be subtracted.

Mr. Lockwood, in behalf of the remonstrants, also claimed that the consents of a number of corporations, amounting in the aggregate to \$523,770, were defective, in that the officer or agent signing for the corporation had not proper authority to sign. This contention is based upon the ground that section 12 of the General Street Railroad Act makes the provisions of sections three and four of that act applicable, and that in section three the provision exists that "The consent of such owners shall be acknowledged as are deeds entitled to be recorded."

Mr. Lockwood further submitted an affidavit from Thomas Cary Welch that twenty names upon the list of consents did not appear upon the assessment-rolls as being owners of property on Niagara street between Main street and Hertel avenue.

The Board did not deem that it was necessary to consider or decide either of the last two questions raised, for the reason that if those property owners who withdrew from the original list of consents had a right so to do, it left the railroad company without a majority of consents, giving it the benefit of the other doubtful questions.

The question of the right of withdrawal was raised in the application of the Utica Belt Line Street Railroad (1st vol. R. R. Com. R. for 1889, p. 116). The point was not decided for the reason that there was a majority of affirmative consents in that case under any circumstances.

This application presented a different state of facts, however, and the Board, therefore, considered it.

Mr. Box claimed that the consents having once been given and a majority in value of the abutting property owners obtained, the abutting property owners had no right to withdraw unless such consents should have been obtained through fraud, which is not alleged in this case.

Mr. Lockwood, on the other hand, claimed that no vested rights had accrued. To sustain Mr. Lockwood's position, a brief of Judge Humphrey is lodged with the Board, in which the cases of the People *ex rel. Erwin v. Sawyer*, County Judge, etc. (52 N. Y., p. 296), and *People ex rel. Smith* (45 N. Y., pp. 780-785), are cited.

The first case cited, which is claimed to be analogous to the petition under consideration, is as follows: "A taxpayer who has signed petition for bonding his town under the provisions of the act permitting municipal corporations to aid in the construction of railroads, as the right to withdraw his name therefrom at any time prior to the final submission of the case to the county judge, and upon such with-

drawal his name and taxable property must be excluded from the calculation upon the part of the applicants."

The case is not altogether similar, but the principles enunciated in the discussion thereof by the learned judge (Grover, J.), seem to the Board applicable to this one.

The railroad company obtains no vested right to a change of motive power until it receives the approval of this Board. Had the Board deemed fit to give its approval before the company had gone to the abutting property owners, and had the company after obtaining such approval obtained the consents of a majority in value of the abutting property holders, it is likely that the remonstrants would have been estopped from withdrawals.

In view, however, of the fact that it is the practice of the Board to require the company to obtain the consents of a majority of the abutting property owners, or of commissioners appointed by the Supreme Court in lieu thereof, before giving its consent, the Board deemed that no vested right had been obtained and that such property owners as desired to change their minds had the right to do so.

Indeed, the Board considers that the evidence that has been produced before it of the disposition of property owners to change their minds, is a good reason why the Board should not give its consent until it is clearly shown that a majority of the abutting property holders have finally determined as to the expediency of the change.

For the above reasons, the Board did not deem that it was justified in giving its consent to the application for a change of motive power at the hearing May thirteenth.

Before the Board had rendered its decision, however, a letter was received from the counsel of the railroad company saying: "We earnestly request, as a matter of justice, that in the event of your deciding to consider the remonstrances presented at the adjourned hearing, a further opportunity will be given us to present petitions which will request the removal of their names from these last remonstrances and which, we feel assured, will be sufficient to assure the Board that the honest feeling in Niagara street, as it is in all the adjacent territory, is in favor of the trolley rapid transit system."

In response to this the Board replied that it had deemed it proper to consider the remonstrances alluded to, but in view of the request of the railroad, would suspend decision of the matter at that time.

On June twenty-third, Mr. Porter Norton, on behalf of the railroad, appeared before the Board, claiming to have procured a large number of additional consents and withdrawals from the remonstrance, sufficient to give the railroad company a large majority of consents of abutting property owners.

In response to his request the Board again set down a hearing before it on Tuesday, July first, at 10 A. M., of which due notice was sent both by telegram and letter to Mr. Lockwood, representing the remonstrants.

On Tuesday, July first, the railroad company was represented by Mr. Porter Norton; the remonstrants by Mr. J. W. Russell.

Mr. Russell objected to the further consideration of the application and reiterated the substance of letters from Mr. Lockwood and Jud Humphrey objecting to a further consideration of the application.

upon the ground that no further evidence should be submitted after the hearing on May thirteenth; that the matter was then finally disposed of and that if the company desired to again make application it must be done from the beginning; that is, that a new application should be made, notice of hearing published for a certain length of time, etc., etc.

There is nothing in the statute or in the equities of the case, in the opinion of the Board, to justify such a course. Before the Board of Railroad Commissioners was substituted for the local authorities as the public body to give consent for a change of motive power, the law seemed to contemplate that the local authorities might give their permission before the consent of the abutting property holders had been obtained. For section 4 of chapter 252 of the Laws of 1884, provided that "Any consent so given by said local authorities shall cease and determine at the expiration of one year thereafter unless prior to the expiration of such period the company obtaining such consent shall have filed the consent of the requisite amount in value of property owners," etc.

This Board, however, as hereinbefore stated, has made it a practice to require the consents of the abutting property holders before giving its consent. There is no reason, however, why a railroad company should be cut off summarily at the first or second hearing before the Board, on account of doubt of the sufficiency of consents. It is entirely within the discretion of the Board to give a company another opportunity of presenting further consents, and there appears to be no good reason why a company should be unnecessarily harrassed by being compelled to begin the entire proceedings over again, provided due and sufficient notice is given to the remonstrants of such new hearing.

At the hearing on July first papers were presented by Mr. Norton showing the sufficiency of the consents of the corporations to which objection had been made by Mr. Lockwood at the hearing May thirteenth, amounting to \$523,770.

Affidavits were also presented which satisfied the Board as to the names upon the list of consents which did not appear upon the assessment-rolls as being owners of property on Niagara street—the names in question being either executors or administrators of persons deceased since the assessment-roll had been made out, or names of persons whose property had not been counted at all.

The figures on July first stood as follows:

Total consents to May thirteenth, as hereinbefore stated.....	\$2,064,695
New consents and withdrawals from remonstrance claimed by company.....	731,055
<b>Total.....</b>	<b>\$2,795,750</b>
<b>Majority required .....</b>	<b>2,214,586</b>
<b>Leaving excess as claimed by company of.....</b>	<b>\$581,164</b>

Objections were raised by Mr. Russell to the sufficiency of the consents in a number of cases, aggregating \$99,960. The objections were upon the ground that there was nothing to show in the papers a file that the executors of estates or the administrators of wills had

authority to sell, consequently to consent (in his opinion); that in cases where one member of a firm had signed, such signature was without authority, etc.

Mr. Russell further objected that of the \$470,570 of city property which had been counted as consenting, the authority to give such consent was lodged in the park commissioners or water commissioners and not in the common council.

The above sums (*i. e.*, \$99,960, plus \$470,570) aggregate \$570,530.

Since the hearing, however, the Board has received a communication from Mr. Norton, inclosing the consent of the Buffalo park commissioners as to the property under their control, which, with the consent of the common council previously obtained, makes the consent as to this city property valid beyond any doubt. A communication from the assessors states the value of the park property to be \$212,520.

In addition to the above, John J. Griffin, clerk of the surrogate's court of Erie county, transmits an affidavit that he has examined the will of Elizabeth H. Wells, and that such will gives full power of sale to the executor, Wm. Hamilton Wells. The amount involved in this matter is \$11,800.

Mr. Griffin further certifies that Alice Howard has been duly appointed executrix of the will of Sarah Howard, deceased, and that said will gives full power of sale to said executrix. The amount involved in this is \$16,200.

These three items aggregate \$240,520. Subtracting this sum from \$570,530, the aggregate of objections, we get \$330,010. Giving the remonstrants the full benefit of this \$330,010, and subtracting the same from the \$581,164 excess over a majority claimed by the company, we still have \$251,154 excess.

It is more than probable that many of the items of the \$330,010 objected to, should be counted in favor of the company were it necessary to go into the merits of each case. Inasmuch, however, as there is a clear majority of \$251,154, giving the remonstrants the benefit of every doubtful point, the Board does not deem that it is worth while to further discuss the matter.

#### CONCLUSIONS.

In view of the above recited facts the Board deems that it is justified in approving and does hereby approve of a change of motive power from horse power to the overhead electric trolley system by the Buffalo Street Railroad Company upon that portion of its railroad lying upon Niagara street between Main street and Hertel avenue, upon the following conditions, however, which are made part of this approval:

*First.* The conditions and requirements imposed by the common council of the city of Buffalo in its resolutions on the 14th day of April, 1890, giving consent to change of motive power, shall be conforming to in all respects by said company.

*Second.* The rate of speed shall not exceed that to be definitely fixed by the mayor and common council of the city of Buffalo.

*Third.* No car shall be run with less than two men to operate it.

*Fourth.* The company shall take all reasonable and proper means to prevent the currents from its wires from interfering with the cu

rents upon the wires of other companies, whether telegraph, telephone or otherwise.

*Fifth.* Each car shall be provided with safety guards in front of the wheels, coming within an inch of the ground, to prevent persons from being run over.

By the Board. \_\_\_\_\_

## V.

IN THE MATTER OF THE APPLICATION OF THE TROY AND LANSINGBURGH RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE IN MOTIVE POWER FROM HORSES TO ELECTRICITY ON THE LINE OF ITS RAILROAD IN THE CITY OF TROY, FROM THE NORTHERN BOUNDARY LINE OF SAID CITY TO THE SOUTHERN TERMINUS OF SAID RAILROAD IN SAID CITY.

July 8, 1890.

This application dated June the 17th, 1890, was duly lodged with the Board.

A public hearing was had at the office of the Board in Albany, July 7th, after due notice thereof in the newspapers of the city of Troy.

The railroad company was represented by Mr. Charles Cleminshaw, president, General Joseph B. Carr and Hon. L. E. Griffith, counsel.

A *pro forma* opposition was presented on behalf of the Commercial Telephone Company of Troy by William Shaw, Esq., counsel.

It appears that negotiations are pending between the telephone company and the railroad company to so modify the construction of the wires of the respective companies as to prevent the interference with the currents of the telephone company by the railroad company.

This Board will, therefore, not discuss this subject further, but refers to its decision in the matter of the application of the Troy and Lansingburgh Railroad Company on its own behalf and as lessee of the railroads of the Waterford and Cohoes Railroad Company, etc., rendered October the 28th, 1889 (R. R. Com. Rep., 1889, vol. I, pp. 123-126).

Philip Wagner also appeared with a request to withdraw his consent as owner of abutting property to the amount of \$18,000.

Mr. Griffith on behalf of the company presented the consent of the local authorities to the proposed change, as embodied in a resolution of the common council of June 25, 1889, and also the affidavit of Edward Carter, general assessor, showing the consents of abutting property holders to the amount of \$4,519,613 out of a total of \$7,974,596 assessed value of abutting property.

In view of the above facts the Board deems it is justified in approving, and does hereby approve of a change of motive power from horses to the overhead single trolley system by the Troy and Lansingburgh Railroad Company upon that portion of its railroad in the city of Troy from the northern boundary line of said city to the southern terminus of said railroad in said city, with the following conditions, however, which are made part of this approval:

*First.* The requirements of the city ordinance, hereinbefore alluded to, passed June 25, 1889, shall be conformed to in all respects.

*Second.* The rate of speed shall not exceed that to be definitely fixed by the mayor and common council of the city of Troy.

*Third.* The poles from which the wires shall be suspended shall be of a construction and height appropriate to the streets upon which they are to be erected, so as to impair the use and appearance thereof to the least possible extent, and before erection shall be approved by the city authorities.

*Fourth.* No car shall be run with less than two men to operate it if run alone; if two cars are coupled together there shall not be less than three men for the two cars.

*Fifth.* The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or otherwise; this provision, however, is not intended to require the railroad company to construct a double trolley wire.

*Sixth.* The company shall equip its cars with safety guards in front of the wheels, said guards to come within an inch of the ground, so as prevent persons being run over.

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## VI.

IN THE MATTER OF THE APPLICATION OF THE AMSTERDAM STREET RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO ELECTRICITY.

July 22, 1890.

This application was duly lodged with the Board July ninth.

A hearing was given after due notice on the twenty-first of July, at which the railroad company was represented by Hon. M. L. Stover, counsel. No one appeared to oppose the application, nor has the Board received any communications in opposition to the change applied for.

A certificate of Andrew B. Conlon, city clerk of the city of Amsterdam, was filed with the Board, to the effect that the deponent has examined the assessment-roll last completed and that it appears from said assessment-roll that the assessed value of the property bounded on the line of said road (upon which the line of the railroad is now laid) is \$1,641,911; that the said company has obtained the consent, in writing, of the owners of more than one-half in value of the property bounded on said road, to wit: the owners of property of the value of \$919,911.

Mr. Stover further informed the Board that the consent of the local authorities had also been given.

In view of the above facts the Board deems it is justified in approving and does hereby approve of a change of motive power from horse to the overhead single trolley electric system by the Amsterdam Street Railway Company, with the following conditions, however which are made part of this approval.

*First.* The rate of speed shall not exceed that to be definitely fixed by the local authorities of the city of Amsterdam.

*Second.* The poles from which the wires are to be suspended shall be of a construction and height appropriate to the streets upon which they are to be erected, so as to impair the use and appearance thereof to the least possible extent, and before erection shall be approved by the mayor and common council.

*Third.* No car shall be run with less than two men to operate it.

*Fourth.* The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or otherwise; this provision, however, is not intended to require the railway company to construct a double trolley wire.

*Sixth.* The company shall conform to all the requirements of the local authorities heretofore or hereafter legally imposed by said authorities.

By the Board. \_\_\_\_\_

## VII.

IN THE MATTER OF THE APPLICATION OF THE CONEY ISLAND AND BROOKLYN RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO ELECTRICITY, IN ACCORDANCE WITH CHAPTER 531 OF THE LAWS OF 1889, UPON THAT PORTION OF SEA BREEZE AVENUE FROM EAST FIFTH STREET TO WEST FIFTH STREET.

July 29, 1890.

This application was duly lodged with the Board. A public notice of hearing was given in the press of Brooklyn, and such hearing had before the Board of Railroad Commissioners, at its office in Albany, July 28, 1890.

The company was represented by Gen. Henry W. Slocum, president, and William M. Dykman, counsel. The application was opposed by Almet F. Jenks, corporation counsel of Brooklyn, on behalf of the park commissioners.

The application sets forth that the company was organized in 1860, under the General Railroad Act of 1850, to operate its railroad from Fulton Ferry to Coney Island, through and over certain streets. That about the year 1863 the company constructed its railroad from Fulton ferry to Coney Island, and has operated its railroad by horse-power between the said termini from that time until the present year.

That in or about 1875 the Ocean parkway was constructed across its railroad.

That, during the spring of the present year, the company reconstructed that portion of its railroad lying in and upon Coney Island avenue and changed its motive power thereupon from horse power to electricity conducted by overhead wires, the system being known as a Thomson-Houston overhead system; that while the company was gaged in making the changes in its railroad in and upon Coney land avenue, on or about January the 24th, 1890, it received a communication from the commissioners of highways of the town of Gravesend, requesting the company to change its route on Coney



Island; that the petitioner acceded to the request of the commissioners of highways and proceeded to obtain the necessary consents from the property owners.

That the petitioner operates its railroad by electricity from Prospect park, over, along and upon Coney Island avenue to Coney Island, under its charter originally granted to it and by the act of 1861; that from Coney Island avenue to Sea Breeze avenue the railroad is constructed and operated over lands granted to it during the year 1890 by the owners of such lands and owned and held by it for the purpose of its railroad; that the remainder of the petitioner's route is over and along Sea Breeze avenue from East Fifth street to West Fifth street.

That the petitioner substituted the force of electricity in place of horse power on and along Sea Breeze avenue under the authority of the highway commissioners of the town of Gravesend, they being the local authorities in charge of the highways in Gravesend, and with the consent of the abutting property holders, except at, over and across the Ocean parkway, a highway crossing Sea Breeze avenue; that there the petitioner still operates its railroad by horse power.

The petitioner then "prays the Board of Railroad Commissioners of the State of New York to authorize it to operate its railroad over and along Sea Breeze avenue, from East Fifth street to West Fifth street by the power or force of electricity conducted by overhead wires, instead of by horse power, and to grant such other authority and relief as may be necessary in the premises and as are proper and just."

It appears that the company substituted electricity for horse power on that portion of its route other than on Sea Breeze avenue, between East Fifth street and West Fifth street, under the authority of its charter, which it claims permitted it to use any motive power.

Mr. Dykman informs the Board that upon Sea Breeze avenue, where the change of route was made in response to the request of the commissioners of highways of Gravesend, no application was made to the Board of Railroad Commissioners for the reason that at the time the change was made the law substituting the Board of Railroad Commissioners for the local authorities had been declared unconstitutional by the General Term of the Supreme Court, which decision had not then, but since has been reversed by the Court of Appeals; that consequently the approval of this Board was then regarded as unnecessary, but is now deemed essential.

It also further appears that the park commissioners of Brooklyn, who claim exclusive control over Ocean parkway, decline to approve of the construction of the overhead system across Ocean parkway at its intersection with Sea Breeze avenue.

This contention is based upon the provisions of sections 2, 8, 16 and 17 of title 16 of chapter 583 of the Laws of 1888.

Section 16 provides: "No railway upon which steam or compressed air shall be used, or is or shall be intended to be used as a motive power, hereafter constructed across Ocean parkway in any of the towns in the county of Kings shall be constructed on the same grade with said Ocean parkway \* \* \* nor shall any horse railroad be constructed upon, along or across said Ocean parkway \* \* \*

except by permission of the commissioners of the department of parks."

Mr. Dykman contends, however, that section 12 of the General Street Railroad Act, i. e., chapter 252 of the Laws of 1884, as amended by chapter 531 of the Laws of 1889, authorizes the Board of Railroad Commissioners to approve of a change of motive power on any portion of its railroad when the consent of a majority in value of the abutting property holders shall also have been obtained.

Mr. Jenks, on behalf of the park commissioners, contends that the general provisions of the Street Railroad Act, just quoted, do not repeal or modify the specific prohibitions to be found in chapter 583 of the Laws of 1888.

The Board is inclined to think that it was the intention of the Legislature at the time of the passage of chapter 583 of the Laws of 1888, to prohibit the crossing of Ocean parkway at grade by any railroad the motive power of which was other than by horses, and that permission to cross by horses was to be obtained from the park commissioners. But inasmuch as electricity was not then generally in use as a motive power, a specific prohibition with regard to electricity was not inserted.

Inasmuch as the company has got the unanimous consent of abutting property holders on that portion of Sea Breeze avenue with regard to which a change of motive power is applied for, and has also the consent of the commissioners of highways of the town of Gravesend, the Board deems that it is justified in approving of the change of motive power from horses to electricity upon that portion of Sea Breeze avenue from East Fifth street to West Fifth street, without expressing an opinion as to whether such approval would entitle the railroad company to construct its appliances across Ocean parkway to carry its cars over by the power of electricity. The Board deems that that question is one which should be decided by the courts.

#### CONCLUSIONS.

The Board herewith approves of a change of motive power by the Coney Island and Brooklyn Railroad Company from horses to the overhead single trolley electric system upon that portion of its railroad upon Sea Breeze avenue from East Fifth street to West Fifth street, with the following conditions, however, which are made part of this approval:

*First.* The rate of speed shall not exceed that to be determined by the commissioners of highways of the town of Gravesend.

*Second.* No car shall be run with less than two men to operate it.

By the Board.

## VIII.

IN THE MATTER OF THE APPLICATION OF THE MAPLE AVENUE RAILROAD COMPANY BY ITS LESSOR, THE ELMIRA AND HORSEHEADS RAILROAD COMPANY, FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO ELECTRICITY ON THAT PORTION OF ITS ROAD LYING BETWEEN A POINT ON LAKE STREET 800 FEET NORTH OF THE NORTH LINE OF WATER STREET AND THE SOUTHERLY TERMINUS OF THE MAPLE AVENUE RAILROAD UPON MILLER STREET IN THE CITY OF ELMIRA, IN ACCORDANCE WITH CHAPTER 531 OF THE LAWS OF 1889.

July 29, 1890.

This application was duly lodged with the Board. A public hearing was set down at the office of the Board of Railroad Commissioners at 10 o'clock A. M., Tuesday, July twenty-ninth, after due notice published in the Elmira newspapers.

At the hearing the railroad company was represented by Mr. D. C. Robinson, president. No one appeared in opposition, nor has the Board received any communication opposed thereto.

An affidavit of W. A. Kingsbury, an assessor of the city of Elmira, is filed with the Board to the effect that a large majority in value of abutting property holders have consented to the proposed change.

The Board is also informed that the common council and public generally are in favor of the proposed change, although no formal action has been taken by the common council.

In view of the above facts the Board deems it is justified in approving, and does hereby approve of a change of motive power from horses to the overhead electric trolley system upon that portion of the railroad of the Maple Avenue Railroad Company lying between a point on Lake street 800 feet north of the north line of Water street and the southerly terminus of the Maple Avenue railroad upon Miller street in the city of Elmira, with the following conditions, however, which are made part of this approval:

*First.* The rate of speed shall not exceed that to be reasonably fixed by the local authorities of the city of Elmira.

*Second.* The poles from which the wires are to be suspended shall be of a construction and height appropriate to the streets upon which they are to be erected, so as to impair the use and appearance thereof to the least possible extent, and before erection shall be approved by the mayor and common council.

*Third.* No car shall be run with less than two men to operate it.

*Fourth.* The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage induction or otherwise from interfering with the currents upon the wires of other companies, whether telegraph, telephone or otherwise; this provision, however, is not intended to require the railway company to construct a double trolley wire.

*Fifth.* The company shall conform to all the reasonable requirements of the local authorities heretofore or hereafter legally imposed by said authorities.

By the Board.

## IX.

IN THE MATTER OF THE APPLICATION OF THE THIRD AVENUE RAILROAD COMPANY OF NEW YORK, FOR THE APPROVAL OF THE BOARD OF THE CROSS SECTION AND CONSTRUCTION OF THE RAIL TO BE LAID UPON ITS RAILROAD WHEN THE CHANGE IS MADE FROM HORSES TO CABLE AS A MOTIVE POWER.

July 29, 1890.

The Board of Railroad Commissioners in its approval of a change of motive power upon the Third Avenue railroad from horses to cable, given September the 30th, 1889, provided among other things that "the company shall lay a rail of a cross section and construction to be approved by the commissioner of public works and the Board of Railroad Commissioners."

In conformity thereto, a formal application was made on behalf of the company to this Board on July the twenty-eighth, by Lewis Lyon, president; Henry Hart, vice-president; Edward Lauterbach, counsel, and A. H. Lightal, engineer.

The company urged the Board to approve of a cross section of rail known as the "tram" rail. In this rail, the projection which serves to guide the flange of the wheel is flush with the paving stones on the outside of the rail; on the inside of the rail, however, there is a drop of an inch, then a flat surface extending two and one-half inches, where the paving stones between the rails begin.

The objections to this rail, in the opinion of the Board, are as follows:

It would facilitate trucks and vehicles driving upon the track, but would offer as many obstacles to their driving off as did the old center-bearing rail.

In view of the adoption of the cable, with its enormous mechanical force, and of the possible danger of the grip not letting go of the cable, it is evident that every facility should be afforded for vehicles to drive off the track.

It was admitted by the counsel of the railroad companies in the discussion before the Legislature two years ago of the bill to compel railroads to remove the center-bearing rail, that that rail had been deliberately adopted by the companies to prevent vehicles driving on the track. The same fact was stated by ex-Mayor Hewitt in published communications.

It would evidently, therefore, be unwise in the extreme to now adopt a rail which permits vehicles the utmost facility to drive on the track, but presents the same difficulties to drive off that the center-bearing rail does.

For the above reasons, the Board feels it its duty to decline to approve of the so-called "tram" rail.

The company in its application presented a form of grooved rail which it expressed the hope that the Board would approve in case it declined to approve the "tram" rail.

The form of grooved rail suggested by the company does not meet the ideal requirement of a street surface rail, in the opinion of the Board. It is so much better, however, than the tram rail, that the Board has concluded to approve it, particularly in view of the fact

that it is in practical successful operation, with very slight modifications as to dimensions, in Buffalo, Boston, Washington, Salem, Mass., Cleveland and Binghamton.

The Board is of the opinion that a simple groove with not exceeding seven-eighths of an inch opening at the top and seven-eighths of an inch in depth, with the surface of the rail on each side of the groove flush with the paving stones, would be found practicable. The strenuous contention, however, upon the part of the railroad companies that a wider groove at the top and a slight depression of five-sixteenths of an inch of the inner surface would be absolutely necessary to permit the dirt and ice to be worked out of the groove, has led the Board to approve of the cross section as submitted by the railroad company.

#### CONCLUSIONS.

The Board approves of the cross-section of rail for the Third Avenue Railroad Company, a drawing of which is hereunto attached, having the following dimensions, to wit:

The head of the rail to be not less than two inches; a groove not to exceed one and one-quarter inches in width at the top and three-eighths of an inch at the bottom; the depth not to exceed one inch, measured from the surface of the head of the rail to the lowest point of the groove; the thickness of the metal forming the inner side of the rail to be not less than five-eighths at the surface, and the upper surface of the same to be not more than five-sixteenths of an inch lower than the head of the rail; the whole depth of the rail to be not less than seven inches, and the lower flange to be not less than four inches in width; the bed and general construction of the pavement to be laid in conformity with the requirements of the commissioners of public works.

By the Board.

#### X.

IN THE MATTER OF THE APPLICATION OF THE BROADWAY AND SEVENTH AVENUE RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO CABLE, IN ACCORDANCE WITH CHAPTER 531 OF THE LAWS OF 1889.

July 31, 1890.

This application, after some preliminary correspondence, was duly lodged with the Board. A public hearing was set down at the Chamber of Commerce, in New York city, on June 18, 1890, at 11 o'clock. Wide notice of the same was given by advertisement in the press.

At the hearing, the railroad company was represented by Hon. Elihu Root, counsel; Henry Thompson, president; Col. Daniel S. Lamont and others. No one appeared in opposition, except so far as to urge upon the Commission the adoption of such measures as would insure public safety.

The application sets forth that it is made in pursuance of a resolution of the board of directors of the said company; that said Broadway and Seventh Avenue Railroad Company now operates a portic

of the railroads on said route under a lease from the South Ferry Railroad Company; that said South Ferry Railroad Company has authorized and requested said Broadway and Seventh Avenue Railroad Company to make this application; that said Broadway and Seventh Avenue Railroad Company now operates a portion of the railroads on said route under certain contracts made between it and the late Broadway Surface Railroad Company.

That on the 12th day of November, 1889, the common council of the city of New York gave its consent to the use of cable power in the operation of said railroads on said route; that such consent was recommended by the mayor of the said city and also by the commissioners of the sinking fund of said city; that said consent of the common council was approved by the mayor on the 13th day of November, 1889, and was granted on certain terms and conditions therein set forth; that each and all of said terms and conditions have been accepted and agreed to by the Broadway and Seventh Avenue Railroad Company.

That among such terms and conditions was one to the effect that the Broadway and Seventh Avenue Railroad Company should, within thirty days from the passing of the resolutions of said common council granting such consent, execute and deliver to the comptroller of the city its corporate bond under seal, in the penalty of \$500,000, conditioned that during the time when such cable railroad should be in operation and so long as no other railroad than those now existing should be constructed upon, over or under the said routes in Broadway or any part thereof the percentages upon gross receipts paid into the city treasury under existing provisions of law for the use of Broadway for railroad purposes, together with a rental of \$40,000 also paid for such use under such provisions, should amount to the annual sum of at least \$150,000, which the said company should agree to be the minimum amount to be paid annually for such percentages and rental.

That such bond was executed and delivered within the time limited.

That the said Broadway and Seventh Avenue Railroad Company was also required to give a satisfactory bond in the sum of at least \$100,000 to save and keep harmless the mayor, aldermen and commonalty of the city of New York from all suits, actions and claims of any kind resulting to persons or property from the constructing of the conduits for or the laying of said cable; that such bond has been executed.

That the cable system which it is proposed to adopt is a duplicate cable system shown upon the plans exhibited to the Board. The conduit is to be a tube of steel with an open slot of five-eighths of an inch at the surface, two feet six inches deep, and one foot six inches wide at the widest part; to be surrounded by a continuous bed of solid concrete six inches in thickness. Every four and one-half feet there will be an iron frame or yoke further supporting the concrete and the rails upon the surface of the pavement, and this frame will in turn be supported by a solid bed of concrete six inches in thickness.

That it was proposed to use side-bearing rails, and the space between and immediately outside of the rails to be paved with granite blocks of the same dimensions as those prescribed for the pavement of the remainder of the street, and resting upon the solid mass of

concrete and iron frames which surround the conduits, so that the relative positions of the paving stones and the car rails can not be changed by frost or use.

The application then goes on to describe at length the construction in detail, which it is not necessary to repeat here.

In the actual construction of the cable road the road is to be divided into a convenient number of sections.

Suitable driving plant, machinery and engines in duplicate are to be provided to operate each section.

The counsel of the company agreed that every provision that ingenuity could suggest would be adopted to operate the cable with safety to the traveling public, particularly in the form of grip and system of signaling to the central house to stop the engines in case of accident.

In addition to the consents of the local authorities hereinbefore mentioned, Mr. John I. Davenport presented to the Board on July twenty-first an affidavit to the effect that he had personally examined the assessment rolls of the city of New York and had taken off and carefully footed the total valuation there shown of the property on said route: that the total of said valuation of said property is \$125,553,966 and that the owners of property bounded on said route to an amount of upwards of \$63,000,000 have consented to the operation of said road by cable power.

On the twenty-eighth of July a further affidavit by P. J. Kelly, a clerk of the department of taxes and assessments, was submitted to the same effect, showing a majority in value of abutting property holders consenting.

Mr. Davenport informed the Board that the consents had not been filed in the county clerk's office in consequence of some informalities in some of the acknowledgments, which would be speedily corrected.

#### CONCLUSIONS.

In view of the above recited facts, and of the further fact that there was no opposition expressed to the application for a change of motive power at the publicly advertised hearing before the board at the Chamber of Commerce, New York city, on June eighteenth, and that the Board has received no communication opposing the proposed change, it deems that it is justified in approving, and does hereby approve, of a change of motive power from horses to cable, by the Broadway and Seventh Avenue Railroad Company upon the railroads now operated by said company from the Central Park to the South Ferry by way of Seventh Avenue, Broadway, Battery place, Whitehall and State streets. This approval to take effect when the above mentioned consents in writing, now obtained, of the owners of one-half in value of the property bounded on such streets, shall have been filed in the office of the county clerk of the county of New York, and a certified copy thereof filed in the office of the Board of Railroad Commissioners, Albany; with the following conditions, however, which are made part of this approval:

*First.* The company shall pay the expense of the repavement of all said streets between the rails of its tracks and for a space two feet in width outside of and adjoining the outside rails of said tracks, and the

repairs of such pavement from time to time, such repavement and repairs to be made by or under the supervision of the department of public works.

*Second.* Any and all changes in location of tracks or of water-pipes, sewers, gas mains or other underground structures rendered necessary by the construction of the conduit for such cable power, shall be by agreement with the commissioner of public works, who, wherever the construction of said conduit shall interfere with existing underground structures of any kind, shall approve of the method of construction of said conduit, prior to the adoption thereof by said company, and all such changes or removals shall be done by the department of public works or under its supervision, at the expense of said company.

*Third.* The company shall lay a grooved rail of a cross section and pattern approved by the Board of Railroad Commissioners and consented to on July 31, 1890, by the commissioner of public works, a drawing of which is hereunto attached, having the following dimensions, to wit :

The head of the rail to be not less than two inches; a groove not to exceed one and a quarter inches in width at the top and three-eighths of an inch at the bottom; the depth not to exceed one inch measured from the surface of the head of the rail to the lowest point of the groove; the thickness of the metal forming the inner side of the rail to be not less than five-eighths of an inch at the surface, and the upper surface of the same to be not more than five-sixteenths of an inch lower than the head of the rail; the whole depth of the rail to be not less than seven inches, and the lower flange to be not less than four inches in width. The bed and general construction of the pavement to be laid in conformity with the requirements of the commissioner of public works.

In view of the urgency, however, of immediately laying a rail upon that portion of the route not to exceed three-quarters of a mile in length, the contracts for the pavement of which have already been let by the commissioner of public works, and of the impossibility of procuring a grooved rail in time to lay the same, it is agreed that the tram rail may be laid on such portion of the route temporarily; said tram rail to be removed as soon as grooved rails of the pattern hereinbefore described can be obtained.

*Fourth.* The company shall remove the snow from its tracks, and not throw it on either side thereof.

*Fifth.* The rate of speed of the cable shall not exceed that to be definitely regulated by the local authorities having charge of streets, avenues, roads or highways in the city of New York.

*Sixth.* The company shall conform to all reasonable requirements legally imposed by such authorities.

*Seventh.* The company shall equip its cable cars with a safety guard in front of the wheels, coming within an inch of the track, of such construction as to prevent persons being run over in case of falling in front of the cars.

*Eighth.* This approval is given upon the condition that the cable conduit or conduits and structure to be constructed and used by the Broadway and Seventh Avenue Railroad Company and its lessor, shall not in any manner interfere, except during the course of construction or necessary repair, with the use of the aforesaid tracks by the Forty-



second street and Grand Street Ferry Railroad Company as now used in common for the passage of the cars of said last named company along Broadway from Thirty-fourth street to Twenty-third street, and upon the condition that the Forty-second Street and Grand Street Ferry Railroad Company may use any cable, conduit or structure that may be laid in, through, along or upon Broadway between Twenty-third street and Thirty-fourth street in the city of New York by the Broadway and Seventh Avenue Railroad Company or its lessor in common with the said last named company or its lessor, upon payment of such proportion of the cost of maintaining the same between Twenty-third street and Thirty-fourth street as may be agreed upon between said companies, and said Forty-second Street and Grand Street Ferry Railroad Company shall have all necessary and proper facilities for connecting with the same; and, upon the further condition that the said conduit, cable and structure shall be so constructed, if practicable, that the Forty-second Street and Grand Street Ferry Railroad Company can insert a cable or duplicate cable in said conduit upon paying a proper proportion of the expense, not exceeding one-half of the cost of construction of said conduit. If the respective companies cannot agree as to the expense to be borne by the said Forty-second Street and Grand Street Ferry Railroad Company for the use of the cable of the Broadway and Seventh Avenue Company, the Board of Railroad Commissioners will determine the proportion of expense to be paid.

By the Board.

# APPLICATIONS FOR INCREASE OF CAPITAL STOCK.

## I.

IN THE MATTER OF THE APPLICATION OF THE ALBANY RAILWAY COMPANY FOR AN INCREASE OF CAPITAL STOCK FROM \$275,000 TO \$750,000.

November 8, 1889.

This application was lodged with the Board November second.

The proceedings required by section nine of the General Railroad Act have been duly taken.

A meeting of stockholders, pursuant to notice, was held in the city of Albany on the 31st day of October, 1889, and by the affirmative vote of 2,196 shares, out of the whole number of 2,750 shares, the resolution of the board of directors to increase the capital stock was approved. There were no negative votes.

The proposed increase is for the purpose of changing the motive power from horses to electricity, for equipping the road with electric motors, and for the purpose of purchasing additional real estate, constructing thereon a power-house, smokestack and other buildings, and such mechanical and electrical appliances as are necessary to thoroughly equip and operate its several lines with electricity.

An examination of the financial condition of the company was made by the accountant of the Board, from which it appears in brief that on September the 30th, 1889, the total cost of road and equipment to that date was \$406,266.70; that the outstanding obligations were, capital stock, \$275,000, funded debt, \$150,000; total outstanding obligations, \$425,000.

From this it appears the outstanding obligations are now \$18,733.30 in excess of the actual cost of construction and equipment.

A sworn estimate of the expenses likely to be incurred has been presented to the Board by the president of the company, J. W. McNamara, Esq. He says therein that "in the opinion of deponent it will require more than \$500,000 to thoroughly equip the several lines of the said railway with electric motors and all the mechanical and electrical apparatus and appliances necessary to thoroughly operate such electric motors, and to reconstruct the tracks and to pay for the repavement of the several streets mentioned in the aforesaid resolution; that this opinion is based upon deponent's knowledge of the cost of tracks, buildings, cars and pavements, and on the estimate of an electrical expert as to the cost of the best electrical apparatus and appliances."

At the hearing, these estimates were submitted more in detail and amounted to \$642,000.

As the amount of increase asked is \$475,000, a materially less sum than these estimates, and as the equipment of the road would probably more than absorb the present existing excess of outstanding obligations over and above cost of road and equipment up to September 30, 1889, the Board deems that it is justified in approving, and does hereby approve of the increase of the capital stock of the Albany Railway Company from \$275,000 to \$750,000.

## II.

IN THE MATTER OF THE APPLICATION OF THE BROOKLYN CITY RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD FOR AN INCREASE OF ITS CAPITAL STOCK FROM \$3,200,000 TO \$6,000,000.

December 8, 1889.

The preliminary steps required by § 9 of the General Railroad Act have been taken by the directors and stockholders of the company.

At a meeting of the stockholders on November the 29th, 1889, after due notice, 268,230 shares of stock were represented, of which 259,910 were cast in favor of the proposed increase.

An examination has been made by the accountant of the Board of the financial condition of the railroad company.

From his report and that of H. M. Thompson, secretary of the company, it appears that the object of the proposed increase of stock is to provide means for acquiring the stock of the Bushwick, Brooklyn Crosstown, Calvary Cemetery, Greenpoint and Brooklyn, New Williamsburgh and Flatbush, Greenpoint and Lorimer Street railroads, all of which are now held under lease by the Brooklyn City R. R. Co.

Chapter 254 of the Laws of 1867, as amended by chapter 503 of the Laws of 1879, provides that

"SECTION 1. Any railroad corporation created by the laws of this State, or its successors, being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders or any of them in the corporation whose road is held under lease and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations \* \* \*," etc.

Under the provisions of the above act, the Brooklyn City Railroad Company, as lessee, has acquired \$1,486,700 out of \$1,520,000 total capital stock issued by the lessor companies, leaving but \$33,300 still in possession of other parties, but which the company claims will be surrendered very soon.

The cost to the Brooklyn City Company, as stated by its secretary, of acquiring the stock of the lessor companies is \$2,223,000, of which \$2,179,770 has already been paid, for which purpose the money was borrowed, pending this application for the increase of its capital.

A brief statement of the stock, debt and cost of road and equipment of the lessor companies, as returned in their annual reports, including amount expended by lessee on leased roads, is as follows :

LEASED LINES.	Cost of road and equipment.	Capital stock.	Debt.	Expended for construction and equipment over stock and debt
Bushwick.....	\$1,131,874 02	\$500,000	\$564,000 00	\$67,874 02
Crosstown.....	784,492 19	500,000	200,000 00	84,492 19
Calvary Cemetery.....	300,000 00	100,000	200,000 00	.....
New Williamsb'g, Brooklyn and Flatbush.....	548,662 28	300,000	218,863 33	31,798
Greenpoint & Lorimer Street.	245,000 00	120,000	125,000 00	.....
Expended by lessee.....	18,074 63	.....	.....	18,074
	\$3,028,108 12	\$1,520,000	\$1,306,863 33	\$202,238

It appears that the capital stocks of these leased lines, with t exception of the Greenpoint and Lorimer Street road, have been selli

at a large premium; that in order to acquire them the Brooklyn City railroad has purchased them at the following rates :

Bushwick .....	\$750,000
Crosstown .....	1,000,000
Calvary Cemetery .....	125,000
New Williamsburgh and Flatbush .....	300,000
Greenpoint and Lorimer Street .....	48,000
	<u>\$2,223,000</u>

The Brooklyn City Company has also assumed the funded debt of the lessor lines, aggregating in all \$1,305,863.33.

According to the report of the company, as verified by the investigations of the accountant, the cost of the Brooklyn City railroad to date is \$4,411,510.86; additional construction and equipment under contract, \$515,000.

It appears, then, that the financial status of the companies to date is as follows :

Lessor lines: Cost of road and equipment.....	\$3,028,103 12
Lessee lines: Cost of road and equipment.....	4,411,510 86
Under contract, etc.....	515,000 00
	<u>\$7,954,613 98</u>

Outstanding obligations as they would be if the proposed issue of additional stock of Brooklyn City road were granted:

Lessor lines: Funded debt.....	\$1,305,863 33
Brooklyn City Company: Funded debt.....	800,000 00
Capital stock, if increased.....	6,000,000 00
	<u>8,105,863 33</u>

Outstanding obligations, over and above the actual cost of construction and equipment..... \$151,249 35

From the above it appears that the outstanding obligations, were the increase allowed, would be \$151,249.35 above the actual cost of construction and equipment of the whole system.

The company, however, calls the attention of the Board to the fact that it purchased the roads already constructed and equipped at a reasonable price, although at a premium upon the original cost of construction; that it was obliged to pay this premium, or it would have been unable to acquire the properties.

Taking the prices at which the Brooklyn City Company actually has paid for these properties, the figures would be as follows :

Brooklyn City Railroad Company, cost of its own lines.....	\$4,411,510 86
Amount paid for stock of lessor lines.....	2,223,000 00
Assumption of funded debt.....	1,305,863 33
Betterments on leased lines.....	18,074 63
Construction and equipment now under contract.....	515,000 00

Total cost to the Brooklyn City Railroad Company..... \$8,473,448 82

Outstanding obligations:

Brooklyn City Railroad Co. stock, if increased, \$6,000,000 00	
Brooklyn City Railroad Co., funded debt.....	800,000 00
Leased lines, funded debt.....	1,305,863 33
	<u>8,105,863 33</u>

Cost of the entire system of the Brooklyn City Railroad, over and above outstanding obligations..... \$367,585 49

Notwithstanding the fact that the Brooklyn City Railroad Company has paid for these properties an amount which brings the cost to it \$367,585.49 above the outstanding obligations, the Board feels somewhat reluctant to approve of the proposed increase of stock, for the reason that, as hereinbefore stated, the outstanding obligations would then be \$151,249.35 over and above the *actual cost* of construction and equipment.

As a general rule, the only safe course to prevent abuses and undue inflation of the capital stock and bonded debt of railroad companies is to prohibit the increase thereof beyond the actual cost of construction and equipment. (With regard to the increase of bonds the Board has no jurisdiction.)

If a railroad company were permitted to increase its stock so as to represent its value rather than its cost, it is very possible to conceive of transactions taking place that would defeat the purpose of the law.

Inasmuch, however, in this particular case, as the proposed increase would only show an excess of \$151,249.35 over actual cost of construction and equipment, out of a total of \$8,000,000, and inasmuch as the proposed consolidation and merger will greatly promote the convenience of the traveling public and cheapen the rates of fare in consequence of transfers being given over these different lines for five cents, whereas heretofore two fares have been charged for the same trip, the Board approves of the proposed increase of \$2,800,000, with the condition, which is hereby made part of such approval, that the new stock shall be issued at not less than par and that the stock of the lessor companies, when surrendered, shall be cancelled and destroyed.

By the Board. \_\_\_\_\_

### III.

IN THE MATTER OF THE APPLICATION OF THE BINGHAMTON CENTRAL RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD FOR AN INCREASE OF CAPITAL STOCK FROM \$35,000 TO \$85,000.

February 1, 1890.

The preliminary steps required by section nine of the General Railroad Act were duly taken, and the stockholders at a meeting held on the 21st day of December, 1889, voted for the increase requested, 259½ shares of the stock being represented, all voting in the affirmative.

It appears from a statement submitted under oath by G. T. Rogers, president of the road, that the company proposes to rebuild about four miles of this road, exclusive of side tracks and switches; that the estimated cost of such reconstruction will be \$54,500.

The present stock of the company is \$35,000; the increase of \$50,000 would make it \$85,000. The report of the Binghamton Central Railroad Company, now lodged with the Board, states that up to September 30th, 1889, the cost of construction and equipment was \$22,6 this sum, added to the \$54,500, would make the total cost of construction and equipment, when completed, \$77,100.

The Board has always heretofore declined to approve of an increase of stock where such increase would make the outstanding obligatio

of the company substantially greater than the total cost of road and equipment.

For this reason the Board does not feel justified in approving an increase of \$50,000, but it does feel warranted, and does hereby approve of an increase of \$45,000, so that the stock of the Binghamton Central Railroad Company shall be increased from \$35,000 to \$80,000.

By the Board. \_\_\_\_\_

#### IV.

IN THE MATTER OF THE APPLICATION OF THE CROTON VALLEY RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF CAPITAL STOCK FROM \$100,000 TO \$350,000.

February 17, 1890.

The preliminary steps required by section nine of the General Railroad Act were duly taken, and at a meeting of the stockholders on the 14th day of January, 1890, it appears that more than two-thirds of all the stock outstanding in said company was voted in favor of said resolution.

It further appears from the affidavit of Cecil Campbell Higgins, president of the company, that the line of the Croton Valley Railroad Company as originally located, extended from the Hudson river at Croton to Croton lake, north, a distance of about eight miles, all in the county of Westchester; that under the authority of section 23 of the General Railroad Act, the location of the road was changed so that the eastern terminus thereof was located at the State line near Richfield, Conn.; that by the change of location the line of said road was increased about nineteen miles, thus bringing the total length of road to about twenty-seven miles; that the estimated cost of constructing said road will not be less than \$15,000 a mile, or about \$405,000 in all.

For the above reasons the Board feels justified in approving and it does hereby approve of the increase of the capital stock of the Croton Valley Railroad Company from \$100,000 to \$350,000.

By the Board. \_\_\_\_\_

#### V.

IN THE MATTER OF THE APPLICATION OF THE GRAND VIEW BEACH RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF CAPITAL STOCK FROM \$40,000 TO \$100,000.

February 18, 1890.

The preliminary steps required by section nine of the General Railroad Act have been taken by the directors and stockholders of the company. At a meeting of the stockholders, held February fifth, it was unanimously voted to increase the stock.

It appears that this road was organized in January, 1889, but none of it has yet been constructed. It was originally intended to be built from Charlotte to Long Pond, a distance of about three and a half miles. It is now proposed to extend the line from its present terminus to Manitou Beach, a distance of four miles further, making the entire length of the line about seven and a half miles.

A statement sworn to by J. Miller Kelly, secretary and treasurer, lodged with the Board, states that the cost of the right of way, construction and equipment as estimated by an engineer, will be about \$126,000; that there are no outstanding obligations of the company whatever, except a small balance due to the attorney and engineer.

In view of the above facts, the Board deems that it is justified in approving, and it does hereby approve of an increase of the capital stock of the Grand View Beach Railroad Company from \$40,000 to \$100,000.

By the Board. \_\_\_\_\_

## VI.

IN THE MATTER OF THE APPLICATION OF THE ALLEGANY AND KINZUA RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF ITS CAPITAL STOCK FROM \$80,000 TO \$390,000.

February 24, 1890.

The preliminary steps required by section nine of the General Railroad Act have been duly taken, and the stockholders, at a meeting held on the 14th day of January, 1890, at the office of the railroad company in the village of Olean, N. Y., at which 782 shares of stock were represented, unanimously resolved to increase the stock to the above figures.

From an affidavit submitted by S. S. Bullis, president of the company, it appears that the Allegany and Kinzua Railroad Company was incorporated on the 8th day of December, 1887, under the General Railroad Laws of this State, for the purpose of constructing and operating a railroad from Redhouse station, on the line of the Western New York and Pennsylvania Railroad Company, in the county of Cattaraugus, to a point near the State line between New York and Pennsylvania, a distance of about twelve miles; that the amount of the capital stock of the company is \$80,000; that the railroad has constructed eight miles of main line and four miles of side track or branches and that four miles of main line remains to be constructed.

That the cost of road and equipment to September 30th, 1889, was \$83,106.38; that since September 30th, there has been spent for construction and equipment the sum of \$20,500; that the estimated cost to complete the road is \$40,000, making the total cost of road and equipment, when completed as estimated, \$143,606.38; that stock outstanding is \$80,000, and mortgage indebtedness, \$30,000.

The petitioner further shows that the company has entered into contract or agreement of merger and consolidation with the Bradford and Corydon Railroad Company, a corporation created and exist under the laws of the State of Pennsylvania and engaged in maintenance and operation of a railroad from a connecting p

with the route of the petitioner's railroad; that said Bradford and Corydon Railroad Company has a capital stock of \$110,000 at par value; that its railroad, constructed and to be constructed, main line and branches, will aggregate about fifty-four miles of road, so that on the said merger and consolidation the entire system of roads will aggregate about seventy miles; that by the terms of said agreement of merger and consolidation the entire capital stock of said merged and consolidated railroad company is to be \$500,000.

The petitioner further shows that on or about the 9th day of December, 1889, the petitioner entered into a contract with the Interior Construction and Improvement Company, a corporation created and existing under the laws of the State of New Jersey, whereby the petitioner agreed to cause its capital stock to be increased to an aggregate amount of \$390,000 in the manner required by law, to effect said merger and consolidation; and to cause said merged and consolidated company to issue its capital stock in the aggregate amount of \$500,000, and its first mortgage five per cent gold bonds in the same amount.

The said construction company on its part, in consideration of the payment to it of said bonds and stock, duly covenants and agrees to complete the petitioners' railroad and the uncompleted portions of the Bradford and Corydon railroad until the length of said merged and consolidated railroad shall be not less than forty-six miles, and when required and directed by the engineer of said company, to construct and complete, in addition thereto, extensions thereof upon routes to be designated and located by said engineer, aggregating twenty-four miles of railroad, so that the entire system of railroad to be owned and controlled by said railroad company shall consist of seventy miles of railroad.

The said construction company also agreed to pay off all liens and incumbrances existing upon the railroad property and franchises of any of the said railroads to be merged and consolidated as therein-before provided, and to equip all said railroads with at least six locomotives, four cabooses and sixty log cars, all in good condition.

The counsel of the company, Frank S. Smith, at the hearing before the Board February 24th, further explained that under the contract with the construction company a sufficient amount of the stock and bonds of the consolidated company should be held in trust to make a fund wherewith to complete the twenty-four miles of road to be designated by the engineer of the company.

From the above figures it will be seen that the total amount of main lines and branches to be finally constructed is to be seventy miles; that the total amount of bonds to be issued will be \$500,000; total amount of stock, \$500,000, or \$1,000,000 in all. The constructed and equipped railroad would then have outstanding obligations at the rate of about \$14,200 a mile.

The Board has felt some hesitation in approving of this application for the reason that the actual estimated cost of construction and equipment is not given in detail, but it is an aggregate sum to be borne by the construction company. It can fairly be assumed that the road and its branches will not perhaps cost as much as this estimated sum. On the other hand the amount not being excessive, it is possible that



it may cost more, and the construction company takes apparently the chances of profit and loss.

In view of the fact, however, that this railroad is to be constructed in a mountainous country; that it is likely to open up a region which without its construction would continue a wilderness; that the estimated amount for the cost of road and equipment is not excessive; the Board deems that it is justified in approving and does hereby approve of the increase of the capital stock of the Allegany and Kinzua Railroad Company from \$80,000 to \$390,000, with the following conditions, which are made part of this approval, viz:

*First.* That the said Allegany and Kinzua Railroad Company shall be merged with the Bradford and Corydon Railroad Company.

*Second.* That the stock of the new company shall not exceed \$500,000, and that the bonds thereof shall not exceed \$500,000.

*Third.* That the said stock and bonds are to be delivered to the Interior Construction and Improvement Company in payment for constructed railroad, in accordance with statements as hereinbefore set forth.

By the Board. \_\_\_\_\_

## VII.

IN THE MATTER OF THE APPLICATION OF THE TROY AND LANSINGBURGH RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF CAPITAL STOCK FROM \$300,000 TO \$700,000.

February 25, 1890.

The preliminary steps required by section nine of the General Railroad Act have been taken in this application.

At a meeting of the stockholders held at the general office of the company, in the city of Troy, on the 20th day of February, 1890, it appears that the whole number of votes cast was 5,337, of which 5,307 were in favor of the increase, and thirty were opposed; the votes in favor being more than two-thirds of the whole number of shares of stock of said company.

It appears that the Troy and Lansingburgh Railroad Company is the lessee, either in perpetuity or for such long periods of years as to make it practically so, of the Troy and Cohoes, the Lansingburgh and Cohoes and the Waterford and Cohoes railroads.

From the sworn reports of the respective companies it appears that the cost of construction and equipment thereof, to the 30th of September, 1889, was as follows:

Troy and Lansingburgh.....	\$607,598 75
Troy and Cohoes.....	50,000 00
Lansingburgh and Cohoes.....	15,000 00
Waterford and Cohoes.....	24,481

Total cost of construction and equipment of the system... \$697,079

It was explained to the Board that all sums expended upon t respective lessor roads for construction and equipment, over a above the amounts above mentioned, which are equal in amounts

the outstanding capital stock of the companies respectively, have been charged by the Troy and Lansingburgh railroad to its own construction and equipment account.

From the same reports it appears that the outstanding obligations of the respective railroads are as follows:

Troy and Lansingburgh, stock.....	\$300,000
Troy and Cohoes, stock.....	50,000
Lansingburgh and Cohoes, stock.....	15,000
Waterford and Cohoes, stock.....	25,000
Total stock.....	\$390,000
Troy and Lansingburgh, bonds.....	300,000
Total outstanding stock and bonds.....	<u>\$690,155</u>

The following estimate, under oath, by the president of the company, Charles Cleminshaw, of the cost of equipping the system of railroads with electric motors, relaying tracks, etc., has been submitted:

Power stations.....	\$75,000
Girder rails and cost of laying twenty-two and one-quarter miles of track at \$7,000.....	157,500
Twenty-one motors, trucks and car equipments.....	71,250
Twenty-one box car bodies, ten open cars and alterations to fifteen cars.....	36,375
Poles, setting and labor.....	20,820
Guard wire, feed wire and track wiring.....	39,000
Extensions, contemplated or proposed.....	41,600
	<u>\$441,545</u>
Expense already incurred on work done (of which \$25,437.37 was included in annual report of September 30, 1889).....	105,000
Total.....	<u>\$546,545</u>

It will be thus seen that the cost of construction and equipment already incurred is in excess of the outstanding obligations; that the estimate of construction and equipment to be incurred is \$546,545, while the increase of stock requested is \$400,000.

The Board deems, therefore, that it is justified in approving and does hereby approve of the increase of the capital stock of the Troy and Lansingburgh Railroad Company from \$300,000 to \$700,000.

By the Board.

## VIII.

IN THE MATTER OF THE APPLICATION OF THE SARATOGA ELECTRIC RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF CAPITAL STOCK FROM \$50,000 TO \$150,000.

March 10, 1890.

The preliminary steps required by section nine of the General Railroad Act appear to have been duly taken, and at a meeting of the stockholders held at the office of Pond, Brackett & Butler, in the village of Saratoga, on the 25th day of February, 1890, it was unanimously voted to increase the stock.

From an affidavit of W. R. Ferguson, a director of this company, it appears that upon the two and a half miles of road constructed, \$50,500 has been expended. Mr. Ferguson further testifies that in his opinion it will cost \$118,300 to complete the extension of the road from its present terminus to Ballston. The statements in this affidavit are submitted in detail.

J. L. Butman, president of the road, submits an affidavit to the effect that he has read the affidavit of W. R. Ferguson relating to the cost of said road and extension, and agrees with him fully in his statements and estimates, and considers the estimates therein made to be fair and justified by the probable cost of construction. Said Butman further says that he is familiar with the business affairs of the said company, and that the road has no outstanding bonded indebtedness, nor any notes outstanding, and that its floating debt does not exceed \$2,500.

In view of the above statement of facts, the Board deems that it is justified in approving, and does hereby approve of an increase of the capital stock of the Saratoga Electric Railway from \$50,000 to \$150,000.

By the Board. \_\_\_\_\_

## IX.

IN THE MATTER OF THE APPLICATION OF THE GENEVA AND VAN ETTENVILLE RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF AN INCREASE OF CAPITAL STOCK FROM \$600,000 TO \$4,000,000.

April 29, 1890.

The preliminary steps required by section nine of the General Railroad Act appear to have been taken by the directors and stockholders of the company. At a meeting of the stockholders at the office of the company in Elmira, on the 22d of March, 625 shares of stock, being all of the stock in said company then issued and subscribed, voted in the affirmative. Subsequently 5,375 shares of the stock of the company, being the entire balance of the capital stock of \$600,000, were subscribed to E. P. Wilbur, who, in a written communication to the Board, states that the subscription is made in consideration of the proposed increase of capital stock.

It appears that the Geneva and Van Ettenville Railway Company was organized by articles of association filed in the office of the Secretary of State, on the 7th day of March, 1889, in which the capital stock was fixed at \$600,000; that a survey of the line of the proposed railway, viz.: from Geneva, Ontario county, N. Y., to Van Ettenville, Tioga county, N. Y., along the east shore of Seneca lake, has been made; that an estimate of the cost of construction thereof has also been prepared by the chief engineer of the company, a summary of which, verified under oath, has been filed with the Board.

That since the organization of the said company by an agreement dated the 1st day of January, 1890, the Geneva and Sayre Railroad Company, owning a line of railroad extending from Geneva to t State line between the States of New York and Pennsylvania ne Sayre, has leased its line of railroad to the Geneva and Van Ettenvi'

Railway Company for a period to continue as long as the parties to such lease shall maintain corporate existence; that the capital stock of said Geneva and Sayre Railroad Company is \$1,200,000, and that the whole of said capital stock has been placed in the hands of the president of the Geneva and Van Ettenville Railway Company for the purpose of, and with instructions to surrender the same to the Geneva and Van Ettenville Railway Company, pursuant to the terms and provisions of chapter 254 of the Laws of 1867, as amended by chapter 503 of the Laws of 1879, and to take in exchange therefor capital stock of the Geneva and Van Ettenville Railway Company, provided the capital stock of the said Geneva and Van Ettenville Railway Company is so increased as to enable such change to be made.

That the Auburn and Ithaca Railway Company was organized by articles of association, filed the 8th day of October, 1889, with an authorized capital stock of \$130,000; that the whole amount of such capital stock has been subscribed and paid in; that the purpose of such corporation is to construct a railroad from Auburn to Union Springs to connect with the Cayuga branch of the Geneva and Sayre railroad; that such railroad is well under construction and will be completed within a short time, and that it is proposed to lease the same to the aforesaid Geneva and Van Ettenville railway to be operated as a part and portion of its railway system.

That the capital stock of the said Geneva and Van Ettenville Railway company, the Geneva and Sayre Railroad Company and the Auburn and Ithaca Railway Company is in reality owned by the same parties, and it is the desire of said parties to run and operate all of said railroads as one and to consolidate the same into one corporation and that in order to accomplish this purpose and to construct the proposed railroad from Geneva to Van Ettenville, it will be necessary to increase the capital stock of the Geneva and Van Ettenville Railway Company to at least \$4,000,000, of which \$1,200,000 will be needed to make the exchange for the stock of the Geneva and Sayre Railroad Company, \$120,000 will be needed to make the exchange for the stock of the Auburn and Ithaca Railway Company and the balance of the \$2,600,000 will be required for the construction of the Geneva and Van Ettenville Railroad Company and the double tracking of the Geneva and Sayre railroad from Van Ettenville south to its junction with the system of the Lehigh Valley Railway Company of Pennsylvania:

The estimate of the chief engineer, A. W. Stedman, before alluded to, is to the effect that the construction of the main line of the Geneva and Van Ettenville railroad, 56.51 miles in length, and the double tracking of the Geneva and Sayre railroad, 14.5 miles, will be in all \$2,784,232.55.

In view of the above recited facts, estimates and statements, the Board deems that it is justified in approving, and does hereby approve of the increase of capital stock of the Geneva and Van Ettenville Railway Company, from \$600,000 to \$4,000,000, the same to be disposed of at not less than par and in exchange for the stock of the Geneva and Sayre Railroad Company, and the Auburn and Ithaca Railway Company.

By the Board.

## X.

## APPLICATION OF THE METROPOLITAN CROSSTOWN RAILROAD COMPANY FOR AN INCREASE OF CAPITAL STOCK FROM \$300,000 TO \$600,000.

June 2, 1890.

A. B. STONE, Esq., *Pres. Metropolitan Crosstown Railway Co.:*

SIR.— You request the approval of the Board of an increase of capital stock from \$300,000 to \$600,000.

You submit an agreement entered into between your company and Hugh J. Reilly to the effect that the said Reilly is to construct four miles of double track road, necessary buildings, appurtenances, equipments, etc., for \$600,000 in bonds, \$300,000 in stock and \$300,000 in cash.

You also submit an affidavit of Chas. V. Smith, a civil engineer, stating that, in his opinion, the increase will be necessary to enable the said railroad company to successfully complete and operate its road on the plans proposed.

There is nothing presented to the Board to show what the actual cost of construction and equipment of this road will be. The fact that the company has entered into a contract to construct and equip it for \$1,200,000 of securities is no proof that the road will cost any such sum.

It has not been the practice of the Board to approve of an increase of capital stock unless it can be shown to the Board's satisfaction that the outstanding obligations, stock and bonds, will not be substantially in excess of the actual cost of construction and equipment after such construction.

Should the Board approve of an increase of stock upon the ground that the stock and bonds had all been issued as the consideration to a contractor to build the road complete, it would practically nullify the law.

The spirit of section nine of the Railroad Act, as has been explained to you, is that the Board of Railroad Commissioners shall not approve of the issue of stock and bonds where such securities do not represent substantially, at par, the cost of construction and equipment of the road.

The Board further observes that but fifty-three shares of stock appear to have been subscribed to this enterprise.

Before approving of the increase applied for, the Board, as explained to you, would require a sworn estimate in detail as to what the cost of construction and equipment would actually be.

By the Board.

## XI.

IN THE MATTER OF THE APPLICATION OF THE MAHOPAC FALLS RAILROAD COMPANY FOR AN INCREASE OF CAPITAL STOCK FROM \$82,000 to \$100,000.

July 21, 1890.

The preliminary steps required by section nine of the General Railroad Act have been taken by the directors and stockholders of the company, and at a meeting of the stockholders, held June the 26th, 1890, 679 shares, comprising over two-thirds in amount of the stock of the company, were voted in the affirmative.

The Board approved an increase of the capital stock of this company from \$50,000 to \$82,000 in a decision rendered May 1, 1888 (R. R. Com. R. 1888, 1st vol., p. 153).

It appears that the proposed increase of stock of \$18,000 is for the purpose of acquiring certain property and terminals and erecting certain buildings, a detailed estimate of which has been furnished, under oath, by C. A. Lewald, civil engineer.

The Board deems that it is justified in approving, and does hereby approve of the proposed increase of capital stock of \$18,000, so that the capital stock of the Mahopac Falls Railroad Company shall be \$100,000.

By the Board.

## APPLICATIONS FOR ISSUE OF BONDS.

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In the year 1887, subdivision 10 of section 28 of chapter 140, Laws of 1850, was amended, upon the recommendation of this Board, by chapter 724, so as to read as follows:

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purpose aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid the right to convert the principal due or owing thereon into stock of said company, at any time not less than two nor more than twelve years from the date of the bond, under such regulations as the directors may see fit to adopt; provided, however, that if the already authorized capital stock of such corporation, at the time such bonds may be issued, shall not be sufficient to meet such conversion when made, the stockholders shall, before such issue and in the manner hereinbefore provided, authorize an increase of capital stock to an extent sufficient to meet the deficiency. *Any director or officer of a railroad corporation who shall vote for, sign or certify to any bond secured by mortgage or pledge of the corporate property, without the issue thereof having been sanctioned by a majority in amount of its stockholders, who shall vote in person or by proxy thereon, at a meeting called for that purpose, in the manner provided in section 9 of this act, to consider an increase of capital stock, shall be deemed guilty of a misdemeanor, and shall be punishable by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year or by both such fine and imprisonment.*

Section 9 provides that a copy of the notice of the meeting of the stockholders, at which is to be considered and voted upon the proposition to increase the capital stock, shall "be published within the county where the main office of such corporation shall be located, once a week for four weeks prior to such meeting, in a newspaper to be designated \* \* \* by the Board of Railroad Commissioners."

It therefore follows that a condition precedent to the issuance of bonds is an application to the Board to designate a newspaper in which to publish the notice of the meeting of stockholders. The Board requires that a verified copy of the notice, and a certificate of its publication by law, shall be filed subsequently with the Board.

There have been during the nine months ending June 30th, 1890. applications for the designation of such papers, viz.:

October 3, 1889 — Ontario, Carbondale and Scranton Railway Company.

November 1, 1889 — Utica and Mohawk Railroad Company. Iss: \$8,217.

November 20, 1889 — South Beach Railway Company. Iss: \$150,000.

November 30, 1889 — The Albany Railway. Issue \$500,000.

December 30, 1889 — Syracuse and South Bay Railroad Company.

- January 20, 1890 — Manhattan Elevated Railway Company.  
February 8, 1890 — Dunderberg Spiral Railway Company.  
February 10, 1890 — Adirondack Railway Company. Issue \$2,000,000.  
February 12, 1890 — City Railroad Company of Poughkeepsie.  
February 26, 1890 — Brooklyn Heights Railroad Company. Issue \$275,000.  
February 27, 1890 — Rochester Railway Company.  
February 27, 1890 — Metropolitan Crosstown Railway Company. Issue \$600,000.  
February 28, 1890 — Northern Adirondack Railroad Company.  
March 4, 1890 — Utica and Black River Railroad Company. Issue \$2,000,000.  
March 10, 1890 — Brooklyn City and Newtown Railroad Company. Issue \$2,000,000.  
March 19, 1890 — Saratoga Electric Railway Company. Issue \$150,000.  
March 24, 1890 — Stillwater and Mechanicville Railroad Company.  
April 8, 1890 — Lyons Street Surface Railroad Company.  
April 15, 1890 — Utica and Mohawk Railroad Company. Issue \$75,000.  
April 30, 1890 — Dutchess County Railroad Company.  
May 16, 1890 — Watervliet Turnpike and Railroad Company. Issue \$1,200,000.  
May 22, 1890 — Syracuse Consolidated Street Railway Company.  
June 18, 1890 — Auburn City Railway Company.  
June 28, 1890 — Syracuse, Ontario and New York Railway Company. Issue \$350,000.  
June 28, 1890 — Lehigh Valley Railway Company.  
July 16, 1890 — Croton Valley Railway Company.  
July 22, 1890 — Lehigh and Hudson River Railway Company.  
July 23, 1890 — Buffalo Creek Railroad Company.  
July 30, 1890 — Amsterdam Street Railroad Company. Issue \$150,000.



## APPLICATIONS TO SUSPEND OPERATION OF ROAD.

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In 1886, chapter 605 was passed, providing that any railroad constructed and used principally for transporting lumber or ores during the summer months, or constructed and used principally for summer travel might cease the operation thereof, upon the consent of the Board of Railroad Commissioners thereto, having been first obtained. Under this law, the following applications have been made.

### I.

IN THE MATTER OF THE APPLICATION OF THE ROCHESTER AND LAKE ONTARIO RAILROAD COMPANY FOR PERMISSION TO CEASE THE OPERATION OF ITS ROAD DURING THE WINTER SEASON, FROM THE FIRST OF NOVEMBER TO THE FIRST OF MAY.

October 8, 1889.

This application, dated October 4, 1889, was duly filed with the Board.

Public notice of a hearing on October the fifteenth, was given in the newspapers of Rochester, and to the corporation. On that date the application of the company was presented by C. C. Davy representing the company. W. H. Sauers, supervisor of the town of Irondequoit, opposed the granting of the application, and requested a postponement of the hearing upon the ground that numerous citizens interested in the operation of the road desired to make their opposition felt. His request was sustained by a petition from C. R. Parsons, mayor of the city of Rochester, Charles B. Ernst, city attorney, Hon. Frederick Cook, Secretary of State, W. E. Werner, special county judge, and other citizens.

An adjourned hearing was, therefore, set down and held on October twenty-second. The railroad company was again represented by Mr. Davy, and the opponents of the application by J. W. Taylor. An oral argument was had, and a large number of petitions were subsequently filed by both parties.

The position taken by the railroad, in substance, is that the Rochester and Lake Ontario railroad is about six miles in length, running from a place on North avenue in the city of Rochester to a point at the mouth of Irondequoit bay on Lake Ontario; that its cars, with the exception of a few, are open and built solely for summer travel; that at the terminus of the road is a pavilion, a number of hotels and a grove to accommodate picnic parties, which are all vacated in the winter season.

That the road was organized under the Rapid Transit Act some ten years ago, principally for summer travel, and has never been operated during the winter season; that it runs through no villages; that at terminus there is no village, and the highways through which it runs

except in the city, are not thickly populated; that the said road was built solely for the purpose of carrying people from the city of Rochester to Lake Ontario and back who were bent on pleasure and recreation.

That a short time ago an indictment was found against the road by the grand jury of Monroe county, for maintaining a public nuisance in the highway; that among other things, it was alleged that the railroad had no right in the highway; that the case came on for trial some two or three months ago, and a verdict was directed for the said railroad company, declaring that it was lawfully in the highway and had a right to run thereon; that this indictment was obtained by parties in Irondequoit who wanted the road out of the highway altogether because the cars and the noise incident to running the trains frightened horses; and that "the very men who endeavored to have this road thus abolished by securing an indictment against it, which if convicted would be obliged to cease its operations altogether, are the very men who now petition to have the operation of the road and the running of these trains continued during the winter."

Mr. Davy goes on to state that it would be utterly impossible to run this road during the winter season and live; that clearing the snow from the track would occasion a great expense; that there would be no travel to and from the lake during cold weather, and little if any, by people living on the line of the road.

Mr. Davy furthermore presented petitions from three hundred and seventy odd residents of Rochester in favor of suspending the operation of the road. Also an affidavit from J. D. Whipple and Albert C. Hobbie, to the effect that the road was built principally for summer travel; that they were instrumental in securing the right of way for the said road, and negotiated with a number of people in reference thereto, and that in securing such right of way nothing was said either by the land owners or by themselves about the road running during the winter season.

Mr. Davy, also, in order to sustain his position that the running of the road in winter would be at a great loss, submitted a statement of the average daily earnings and the estimated expenses for the month of October, nineteen days in November, 1888, and twenty-six days in October, 1889, from which it appeared that the

Average daily earnings in October, 1888, were.....	\$27 32
Average daily earnings for nineteen days in November, 1888.....	19 32
Average daily earnings for twenty-six days in October, 1889.....	27 27
Average daily expenses, October, 1888.....	24 34
Average daily expenses nineteen days in November, 1888.....	23 67
Average daily expenses, October, 1889.....	27 38

Mr. Taylor, on the other hand, in behalf of the opponents of the application, submitted affidavits very numerous signed, and an oral argument, to the effect that the said railroad company was incorporated in the year 1879 under chapter 606 of the Laws of 1875; that the promoters of the enterprise, in order to secure the signatures of property holders permitting the railroad to pass in front and rough their premises, represented to the persons so signing or to a majority of them, that the said railroad within the corporate limits of the city of Rochester would be constructed as a narrow-gauge road

and would be operated in such a manner as to accommodate persons living along the line thereof to the same extent that a horse railroad would, and that it would stop at all places along its line to allow passengers to get on or off, and would also have three regular stopping places between the junction of Bay street and North avenue and the boundary limits of said city, and that said road would be operated throughout the entire year.

That said persons signed said paper in the expectation and belief that all of such representations would be carried out; that none of such representations have been carried out; that said railroad is not constructed as a narrow-gauge road; that there is no regular stopping place between the junction of Bay street and North avenue and the boundary line of said city; that said railroad does not and never has allowed passengers to get on or off its trains at any point between its regular stations; that said railroad since its construction has never been operated throughout the entire year, but has only been operated during the summer months.

That the citizens of Irondequoit believe that the operation of said railroad in the highways of said town as it has been operated since its organization, is an actual nuisance during a portion of the summer season, but they are willing to tolerate many inconveniences for certain conveniences which they have the right to expect, and that they should have afforded them.

That that portion of the city of Rochester adjacent to the line of said railroad is thickly settled by people in moderate circumstances, very few of whom can afford to own private conveyances, and that they are obliged to walk long distances from their homes to their respective places of business, and that their children are obliged to walk equally long distances to their schools; that there is no other means of transportation in said city of Rochester along the side of said railroad open to the public, and that the operation of said railroad renders it impossible for any street railroad to be constructed along the said line.

That requests have been repeatedly made to the officers of the railroad to operate the same in accordance with the promises made by them at the time the consent to the construction thereof was obtained; that the operation of the said road, however, in the winter season, even under the system heretofore pursued, would afford considerable convenience to persons living near the said line.

That no opposition has ever been made before the Board of Railroad Commissioners to applications made in behalf of the company for permission to suspend operations during the winter season, for the reason that never before has any notice been given that any such application had been made.

A petition of 293 names, claiming to be ninety-five per cent of the taxpayers of Irondequoit, has been filed, opposing the suspension the road. On this petition are found the names of William H. Saue, supervisor, the town clerk, two justices of the peace, three assessors and a highway commissioner.

Three hundred and forty-nine citizens of Rochester also sign petition to the same effect, upon which are found the names numerous citizens of influence, including the mayor.

In opposition to the statement of the railroad that there are no hotels or houses of public resort to be accommodated at the terminus of the road, a petition containing the names of ten hotel proprietors at the shore of Lake Ontario, near the terminus of the road, unite with the citizens living along the line of the road in protesting against the road being closed during the winter. This petition alleges that the hotels are kept open throughout the entire year and have been for several years past; that it has been a constant source of complaint from the patrons thereof that the Bay railroad has been closed up during the winter; that they have a large number of patrons almost daily who visit the hotels for the purpose of fishing and shooting on the shores of the Irondequoit bay; that these hotels are about eight miles from the center of the city of Rochester, and that there is no direct public conveyance between Rochester and the hotels except the Bay railroad.

That there is nothing in the lay of the land along which the Bay railroad is constructed which would interfere with the operation of the road in the winter time to an extent greater than all railroads have to contend with.

That they have no doubt that the railroad if operated in the winter time would do sufficient business to enable it to pay at least its operating expenses, and that it earns so large a revenue in the summer time that the petitioners believe it would be no hardship if the road were required to run during the winter.

Another petition to the same effect is filed from the Hanswagler Sporting Club, the Empire Sporting Club, the Ragnarok Sporting Club, the Glen Haven Sporting Club, the Mascot Sporting Club, the Newport Sporting Club, the Crescent Sporting Club, the American Eagle Sporting Club, and the Rochester Canoe Club, each one consisting of from eight to twenty members.

Fourteen affidavits are also filed by people living along the line of the railroad, stating specifically that William H. Dake, J. D. Whipple and other promoters of the railroad company at the time of the soliciting permission to build the road in front of the premises of the residents, stated that the road would run throughout the year, would stop upon signal, and would generally run as a street railroad to accommodate the residents along its line, and that had they supposed the road would be run as a steam railroad and as it at present is run they never would have given their consents.

The Board, after a careful consideration of all the facts and circumstances of this application, and in the face of the petitions so numerous signed, would not feel justified in granting the request of the railroad company. The road is in a very prosperous condition, has been earning large dividends and accumulating a considerable surplus.

According to its own statement, hereinbefore quoted, the average daily receipts for October, 1889, have been twenty-seven dollars and twenty-seven cents; the daily expenses, twenty-seven dollars and thirty-eight cents. It is difficult to estimate what the receipts and expenses will be during the midwinter months, particularly should it be a severe season, attended with heavy snows, but it is fair to assume that the expenses over receipts will not average more than a few dollars a day, during the months of December, January, February and March.

Should they amount, however, to the very unlikely sum of fifteen dollars a day for these months, the total loss in the aggregate would be but \$1,800 for the season. This would not be the financial disaster that the road insists would ensue from operation.

The Board deems, however, that if the road is run in good faith and with a view of securing all the travel possible, the chances are that the receipts will very nearly equal, if not exceed, the expenses. Certainly, in view of the very great opposition that has been presented to the cessation of operations, it is but right that the experiment should be made for one season at least.

#### CONCLUSIONS.

For the above reasons, the Board of Railroad Commissioners declines to grant permission to the Rochester and Lake Ontario Railroad Company to cease operations during the coming winter from November 1, 1889, to May 1, 1890, but recommends that it continue running with a view of obtaining the best results possible for the public and itself, and keep an accurate account of the receipts and disbursements for each month.

By the Board.

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## II.

IN THE MATTER OF THE APPLICATION OF THE SENECA FALLS AND CAYUGA LAKE RAILROAD COMPANY FOR LEAVE TO SUSPEND THE OPERATION OF ITS ROAD FROM OCTOBER, 1889, TO MAY, 1890.

October 8, 1889.

Application having been made by the Seneca Falls and Cayuga Lake Railroad Company for leave to suspend the operation of its road from October, 1889, until May, 1890, and notice of a hearing of said application by the Board on this day having been published in the newspapers of the vicinity, and no opposition being presented to the application, and it further appearing, by papers on file with the Board, that public interests would not be prejudiced by such suspension of operation, it is hereby

ORDERED, that the Seneca Falls and Cayuga Lake Railroad Company shall be relieved of the duty of operating its road from the 15th of November, 1889, to the 15th day of May, 1890, in accordance with chapter 605 of the Laws of 1886, upon compliance with section three of said statute, with regard to posting a copy of such order and of the intention of said road to suspend operation.

By the Board.

## III.

IN THE MATTER OF THE APPLICATION OF THE KAATERSKILL RAILROAD COMPANY FOR LEAVE TO SUSPEND THE OPERATION OF ITS ROAD FROM OCTOBER, 1889, TO JUNE, 1890.

October 15, 1889.

Application having been made by the Kaaterskill Railroad Company for leave to suspend the operation of its road from October, 1889, until June, 1890, and notice of a hearing of said application by the Board on this day having been published in the newspapers of the vicinity, and no opposition being presented to the application, and it further appearing, by papers on file with the Board, that public interests would not be prejudiced by such suspension of operation, it is hereby

ORDERED, that the Kaaterskill Railroad Company shall be relieved of the duty of operating its road from the 15th of November, 1889, to the 15th of June, 1890, in accordance with chapter 605 of the Laws of 1886, upon compliance with section three of said statute, with regard to posting a copy of such order and of the intention of said road to suspend operation.

By the Board.

## IV.

IN THE MATTER OF THE APPLICATION OF THE ROCHESTER AND GLEN HAVEN RAILROAD COMPANY FOR LEAVE TO SUSPEND THE OPERATION OF ITS ROAD DURING THE WINTER SEASON.

October 21, 1889.

Application was made by this railroad company, dated October the eleventh, for permission to suspend operation from the first of November to the first of May in each and every year.

It is a corporation created under the General Railroad Act, and has constructed and is operating a narrow-gauge railroad from the city of Rochester to Glen Haven, on Irondequoit bay, a distance of three and two-thirds miles. It is used principally and, up to this time, solely for summer travel.

It appears, from the papers filed with the Board, that the total cost of construction and equipment to date is \$177,699.69; the bonded indebtedness, \$60,000; the net income, from all sources, for the year ending September the 30th, 1889, was \$1,939.99; the receipts from the first to the nineteenth of October were \$91.81; expenses, \$250.

An examination of the road was made by a member of the Board. It appears, that for about one-half mile from the station in Rochester, it runs through a thickly populated district, after which it enters a gorge, and there is little or no population to be served. It ends at a point on Irondequoit bay, where a hotel is built exclusively for summer use.

The Board deems that the road, in question, comes clearly within the provisions of chapter 605 of the Laws of 1886, permitting a railroad constructed and used principally for summer travel to cease operation thereof during the winter season.

It is, therefore,

ORDERED, that the Rochester and Glen Haven Railroad Company shall be relieved of the duty of operating its road from the 18th day of November, 1889, to the 1st day of May, 1890, in accordance with chapter 605 of the Laws of 1886, upon compliance with section three of said statute, with regard to posting a copy of such order and of the intention of said road to suspend operation.

By the Board.

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## V.

IN THE MATTER OF THE APPLICATION OF THE CATSKILL MOUNTAIN RAILWAY COMPANY, FOR PERMISSION TO SUSPEND THE OPERATION OF ITS OWN ROAD AND THE LEASED ROAD OF THE CAIRO RAILROAD COMPANY, DURING THE WINTER MONTHS, IN ACCORDANCE WITH CHAPTER 605 OF THE LAWS OF 1886.

November 18, 1889.

This application dated November the 4th, 1889, was duly lodged with the Board. The application requests "that permission be granted for this company to suspend the operation of the Catskill Mountain railway and Cairo railroad, between Catskill and Cairo, from Saturday, December 14th, 1889, to May 1st, 1890, and also of that portion of the Catskill Mountain railroad from its junction with the Cairo railroad to Palenville, until June the 16th, 1890."

A public hearing was had before this Board at its office in Albany on Monday, November eighteenth, after public notice in the Catskill Recorder. The railroad company was represented by Charles A. Beach, general superintendent, and the remonstrants by A. Hill.

The Catskill Mountain Railroad Company was incorporated under the General Railroad Act and opened for business from Catskill to Palenville in 1882. It proved an unprofitable property and was sold under foreclosure, February 11th, 1885, a new company being organized under the name of the Catskill Mountain railway. The first mortgage bondholders of the old road received income bonds of the new company and have as yet received no interest thereon.

Sometime about 1885, the Cairo railroad from Cairo Junction to the village of Cairo was completed and leased to the Catskill Mountain Railway Company, for six per cent upon the cost of construction, or at an annual rental of \$2,700.

Mr. Beach in behalf of the railroad company insists that the railroad was built principally for summer travel, and that if forced to operate during the winter months it will do so at a loss of from five to six hundred dollars a month, and again reduce it, if not to bankruptcy, to a condition of unprofitableness. He states that the building of the Cairo branch enables the road to be operated as far as Cairo, with some degree of profit, until about the middle of December, that by that time the merchants have laid in their winter supplies of all kinds, and that after that the operation of the road would be a continuous loss. Figures are submitted, showing the daily average earnings in April, 1889, to have been fourteen dollars and ninety-seven cents, May, 1889, thirty-five dollars and thirty-nine cents; figur-



are also submitted, showing the estimated average expenses per day to be thirty-five dollars and eighty-four cents, exclusive of the extraordinary expenses incidental to shoveling snow during the winter.

Mr. A. Hill on the other hand representing the remonstrants, presented a petition signed by some 300 names, requesting that the Board decline its permission to suspend the operations of the road. Mr. Hill draws attention to the fact that certain people interested in the Cairo railroad, stockholders and directors, also request the continuation of operation during the winter. Inasmuch as the stockholders of the Cairo road are guaranteed six per cent upon their investment, their request does not carry as much weight as if they were to suffer the pecuniary loss incident to the running of the road during the winter.

After considering all the facts and circumstances of the construction of this road, its long continued operation without any return whatever, to its stockholders or bondholders, with the exception of the present first mortgage bondholders \$50,000, also the fact that it was undoubtedly constructed principally for summer travel, the Board deems that it can with propriety, and it does hereby grant its application this year to suspend operations, for the time therein mentioned.

The Board, however, also recognize that the populations of Cairo and adjoining towns in Greene county would be benefited by the continued operation of this road, and its grants the application to suspend this year with much reluctance. It advises the railroad company to carefully consider all the sources of business that it can acquire for another year, with a view of running through the winter.

By the Board.

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## VI.

IN THE MATTER OF THE APPLICATION OF THE RIKER AVENUE AND SANDFORD'S POINT RAILROAD COMPANY, FOR LEAVE TO SUSPEND OPERATION OF ITS ROAD FROM JANUARY THE 1ST, TO APRIL THE 1ST, 1890.

December 16, 1889.

This application, dated November the 30th, 1889, was duly lodged with the Board.

Notice of public hearing thereon at the office of the Board in Albany, at 2 P. M. December sixteenth, was given in the Long Island City Star and Long Island City News, the road being located in Long Island City.

No opposition having been made and it appearing from the explanation submitted by the counsel of the road that public interests would not at present be prejudiced by the suspension of operation of said branch during the period specified, it is hereby

ORDERED, that the Riker Avenue and Sandford's Point Railroad Company shall be relieved of the duty of operating its railroad from January the 1st, to April the 1st, 1890, after it shall have complied with section three of said chapter 605, of the Laws of 1886, with regard to publishing notice of such intended suspension.

By the Board.



## VII.

IN THE MATTER OF THE APPLICATION BY THE ONEIDA STREET RAILROAD COMPANY OF UTICA, FOR LEAVE TO SUSPEND OPERATIONS FROM DECEMBER 1ST, 1889, TO APRIL 15TH, 1890, IN CONFORMITY WITH CHAPTER 605, LAWS OF 1886.

December 30, 1889.

This application dated December the 1st, 1889, was lodged with the Board, December the 23d.

A notice of a hearing before the Board of Railroad Commissioners at its office in Albany, December the 30th, was published in the daily papers in city of Utica.

It appears that the railroad runs from Oneida Square, Utica, to the cemetery, a distance of about one and one-half miles, and is used only during the summer months.

No opposition was presented against granting the request, and it appearing that public interests would not be prejudiced by the suspension of the operation during the period specified, *i. e.*, from December the 1st, 1889, to April 15th, 1890, it is

ORDERED, that the said Oneida Street Railroad Company, shall be relieved of the duty of operating its road between the above-mentioned dates, upon complying with the provisions of chapter 605, Laws of 1886, in regard to publishing notice of this order.

By the Board.

## VIII.

IN THE MATTER OF THE APPLICATION OF THE SENECA FALLS AND CAYUGA LAKE RAILROAD COMPANY FOR LEAVE TO SUSPEND THE OPERATION OF ITS ROAD FROM OCTOBER 1, 1890, TO JUNE 1, 1891, IN ACCORDANCE WITH CHAPTER 605 OF THE LAWS OF 1886.

October 13, 1890.

This application, dated October the 6th, was duly lodged with the Board.

The road is two and a half miles long, extending from Seneca Falls to Cayuga lake.

The report for the year ending September 30, 1889, shows a deficit for the year of \$3,555.61. The report for the year ending June 30, 1890, shows a loss of \$2,460.29.

It furthermore appears that the road was constructed principally for summer travel.

In view of the above facts it is, therefore,

ORDERED, That the Seneca Falls and Cayuga Lake Railroad Company shall be relieved of the duty of operating its road from the 10 of November, 1890, to the 1st of June, 1891, in accordance with chapter 605 of the Laws of 1886, upon compliance with section three of said statute with regard to posting a copy of this order and the intent of said road to suspend operation.

By the Board.

# VARIOUS APPLICATIONS BY RAILROAD COMPANIES.

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## I.

IN THE MATTER OF THE APPLICATION OF THE CENTRAL NEW ENGLAND AND WESTERN RAILROAD COMPANY FOR AN EXTENSION OF TIME TO COMPLY WITH THE PROVISIONS OF CHAPTER 189 OF THE LAWS OF 1888, IN RESPECT TO HEATING ITS PASSENGER CARS OTHER THAN BY A STOVE OR FURNACE KEPT INSIDE THE CAR OR SUSPENDED THEREFROM.

October 7, 1889.

This application, by Stacey B. Opdyke, Jr., general manager, and M. N. Fowler, Esq., general counsel, was made to the Board October the 7th, 1889.

It appears that the corporation in question is a consolidation of the Hudson Connecting railroad from Campbell's Hall eastwardly to the Poughkeepsie bridge, the Poughkeepsie and Connecticut railroad, from the bridge to Silver Nails, and that it has leased the Hartford and Connecticut railroad.

The representatives of the railroad assured the Board that the material is on hand with which to equip the cars and locomotives with steam heat, but that they have been unable to do so to the present date.

The Board deems that there is good reason shown why the time should be extended to the 1st of November, 1889, and such time is hereby extended.

By the Board.

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## II.

APPLICATION OF THE LAKE SHORE AND MICHIGAN SOUTHERN RAILROAD COMPANY FOR APPROVAL OF THE BOARD OF PLANS OF DINING CAR RANGES.

October 28, 1889.

J. E. CHILDS, Esq., *Asst. Gen. Man. Lake Shore and Michigan Southern R. R.*:

SIR—The Board acknowledges the receipt of your communication of the twenty-sixth inst., inclosing a blue print of the standard dining car range of the Lake Shore and Michigan Southern Railway, also a perspective drawing of Symond's patent wrought-iron dining car range, with the request that the same be approved by the Board in conformity with section one of chapter 189 of the Laws of 1888.

Before approving plans for stoves in dining cars, the Board requires assurances to be given by the company,

*First.* That the latch on the door where the coal is put in be arranged with an eccentric button, or some other device, so as to automatically hold the latch down to the catch; the same with regard to the door through which the ashes are removed.

*Second.* The plate over the fire-box to be arranged with a catch or bolt on one side and a bolt on the other.

*Third.* The griddle rings and plates to be arranged with a bolt to hold firmly to the plate over the fire-box.

*Fourth.* The whole range to be bolted to the floor of the car by substantial bolts running through the car sills.

The second and third requirements have apparently been already conformed to by your road. Upon receiving the above assurances the Board will approve the plans as requested.

The assurances required were, on November 19th, 1889, received by the Board.

By the Board. \_\_\_\_\_

### III.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF INTER-LOCKING SWITCH AND SIGNAL APPARATUS IN OPERATION AT: *First.* A POINT EAST OF KENNEDY, WATERBORO, AT A CONNECTION WITH THE BUFFALO AND SOUTHWESTERN RAILROAD, OPERATED BY THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY; *Second.* AT FALCONER, CROSSING THE DUNKIRK, ALLEGHENY VALLEY AND PITTSBURG RAILROAD; *Third.* AT JAMESTOWN, CROSSING THE CHAUTAUQUA LAKE RAILROAD, IN ACCORDANCE WITH CHAPTER 439 OF THE LAWS OF 1884.

May 6, 1890.

This application, dated April ninth, was duly lodged with the Board accompanied with blue prints and explanations of the apparatus. On May sixth the apparatus was verbally explained in detail to the Board by J. W. Ferguson, assistant civil engineer of the company.

The first crossing, being of railroads subject to the same management, the Board deems comes within the exception provided in section five of the statute, and, therefore, needs no approval. The apparatus, however, is entirely satisfactory.

The methods at the other two crossings are hereby approved.

By the Board.

# ACCIDENTS.

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## I.

IN THE MATTER OF AN ACCIDENT ON THE THIRD AVENUE CABLE RAILROAD AT ONE HUNDRED AND TWENTY-FIFTH STREET AND FOURTH AVENUE, IN THE CITY OF NEW YORK, ON JANUARY THE 25TH, 1890, BY WHICH BERNARD SEIBER WAS RUN OVER AND KILLED.

February 3, 1890.

The facts and circumstances attending the above accident, as developed by an investigation at the scene thereof shortly thereafter by a Commissioner, by an examination of the president and superintendent of the Third avenue road and by affidavits submitted by eye witnesses, were as follows:

About 5.30 P. M., as cable car No. 6, west bound, had just crossed the bridge over the Fourth avenue subway, it ran over a man named Bernard Seiber.

The gripman of the car, John Grinnen, has run away and the Board has been unable to find him, but from the affidavit of Louis Tancredy, a policeman who was on the car at the time, and from other testimony, it appears that Seiber recklessly, apparently, ran in front of the car. He was knocked down, the life-guards passing over him. His body came in contact with the grip, extending from the cable to the car, and was thus dragged along a considerable distance. When taken out the man was nearly dead and expired within a few minutes.

The gripman appears to have become confused or disturbed, for at all events the car did not stop for a distance estimated to be from fifty to seventy feet from the time the man was struck. It is to be considered that there is a sharp down grade from the Fourth avenue bridge at this point, which doubtless had much to do with the car not stopping sooner. The fact of the gripman's running away, however, raises a presumption that he must have felt that he had not done everything in his power to stop the car in time.

The running gear of these cable cars is equipped with so-called life-guards, consisting of a board nine inches wide, hung on each side, and from the axle box and parallel with the car. The ends are carried across in front of the wheels on an angle. They do not come together to a point, however, there being a flat space of some eighteen inches in length, which raises and lowers in order to pass over certain obstructions likely to be met on the slot. On the bottom of the boards, both on the sides and on the ends, there is a heavy piece of rubber fastened on the lower edge, which projects within from three to six inches of the track. Did these boards and rubber approach the track and the pavement between the tracks more closely, it would have been extremely unlikely, if not impossible, that the man would

have been run over, for the reason that these boards would have pushed him to one side and off the track, after the manner of a pilot of a locomotive.

When the cable cars were first set in operation, an inspection was made of the proposed construction of these life-guards, and drawings and specifications of the same filed with this Board. The safety-guard, which has just been described, was represented as coming within three-quarters of an inch of the track and pavement. The railroad company, however, did not so construct them, but allowed this space of from three to six inches to exist.

The space is altogether too large. This accident shows that a man could be passed over by the guards, and a cursory inspection is sufficient to show that a child could with greater ease be passed over.

#### CONCLUSIONS AND RECOMMENDATIONS.

*First.* The Board finds that the Third Avenue railroad has neglected to equip its cars with life-guards, of the plan approved by this Board in April, 1887, in that said guards allow a space of from three to six inches between the guard and track, instead of three-quarters of an inch as represented in the drawings and specifications sent to this Board for its approval.

*Second.* The Board recommends that the said guards be lowered either by using new boards or by fastening on strong pieces of rubber in such a manner that the guards will reach to within not more than an inch and a half of the rails and the pavement between the same, and also that the flat piece that raises and lowers, on the portion of the guard in the center of the car, be reconstructed so as to form an angle instead of a flat piece as at present.

*Third.* The Board recommends that the present brake-rods on the Tenth avenue cars be reconstructed so as to avoid the likelihood of catching and holding down a person who might get in front of a car.

By the Board.

## II.

### IN THE MATTER OF A REAR COLLISION AT OWEGO, ON THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD, JANUARY 30, 1890.

March 3, 1890.

The facts and circumstances attending this accident, as developed by testimony taken by a coroner at that place, and also by Commissioner Rickard, soon after the accident, together with the statement of Patrick Maloney, one of the injured, are as follows:

Owego is a station on the New York, Lake Erie and Western railroad, thirty-seven miles east of Elmira. On the morning of January 30th, about 12.10, a passenger train, No. 12, was about to start from Owego; train No. 14, Wells, Fargo & Co. express, ran into rear end No. 12, breaking both ends of the Pullman sleeper "West End," the western end of the sleeper "Metropolitan," and the eastern end of the second day-coach, the forward truck of which was off the track and separated about ten feet from the forward part of the train. It v

at this point that E. A. Latham, who died the following day, was found.

Train No. 12 consisted of engine No. 318, one baggage car, one mail and express car, one smoker, two day-coaches and three Pullman sleepers.

The following passengers were injured: E. A. Latham, East Bridgeport, Mass., both legs broken, died from his injuries, January 31st, 8 P. M.; A. R. Penfield, Albany, N. Y., slight contusions on shoulder and strain of muscles of the same; W. H. Stevens, Portland, Me., contusion of right leg; Patrick Maloney, Owego, N. Y., deep flesh wounds in thigh; Wm. Honnesuckle, porter on Pullman car "West End," compound fracture right leg, simple fracture of left leg.

Trains Nos. 12 and 14 are both first-class trains on New York, Lake Erie and Western railroad, and are scheduled to leave Hornellsville, No. 14 at 8.20 P. M., and No. 12 at 8.40 P. M. On this date train No. 14 left Hornellsville one hour and twelve minutes late, with orders to keep one hour behind schedule time. Train No. 12 left Hornellsville thirty minutes late, with orders to run ten minutes late.

Thomas J. Duffy, conductor of train No. 12, swears that he left Elmira at 11.07 P. M.; that he registered at Waverly and left there at 11.37 P. M., and arrived at Owego at 12.08 A. M., and that the collision occurred at 12.10; that his orders were to run ten minutes late; that there was a slight rain and snow storm at the time, but not enough to obstruct the view of the lights on the rear of his train; that for a distance of three-quarters of a mile the track is straight and view unobstructed; that the lights on the rear of his train were burning properly; that he made his schedule time from Elmira to Owego, and had stopped at latter station but two minutes when the collision occurred; that according to rules Nos. 88, 96 and 99, of book of rules, he was fully protected.

The above rules are as follows:

Rule 88. "Passenger trains running in same direction shall keep not less than ten minutes apart unless some form of block signal is used."

Rule 96. "Where a passenger train is detained at any of its usual stops more than three minutes, the flagman must go back with danger signals to protect his train.

Rule 99. "When a train is stopped by accident, or when it fails to make its running time, the flagman must go back."

Andrew J. Hallock, flagman on train No. 12, swears that the tail lights were burning when the train passed the bridge half a mile west of Owego, and that his duty was not to go back and protect his train until it had stopped at a station more than three minutes, and that No. 14 struck No. 12 just as he reached the ground.

Charles DeLavernne, engineer of train No. 14, swears that he left Hornellsville at 9.32, one hour and twelve minutes late; that his orders were to run one hour late; that he left Waverly, a stopping place nineteen miles west of Owego, at 11.44, one hour and thirteen minutes late; that he arrived at Owego at 12.11 A. M., the time of collision. "There is a straight track approaching Owego from the west, of about three-quarters of a mile; when on this straight track coming into Owego I saw no lights whatever on the tail end of No. 12. I do not think the lights were burning properly; if they were the electric

lights at the station must have blinded them. I did not see the rear of No. 12 until my head-light showed it to me, a distance of about fifty feet. Was going at a speed of about ten miles per hour when we struck, the same speed that I would approach this station if everything was clear. I was watching, with my head out of cab, nearly all the way from Waverly. I saw the electric light at the station, but saw no other light. I knew nothing about No. 12's time, except that No. 12 had orders to run ten minutes late, and if No. 12 had been running on their own time they would have been thirty minutes ahead of me. I received no instructions east of Hornellsville."

A. L. Shirley, fireman on train No. 14, swears that on the night in question he was ringing the bell when they crossed the Delaware and Lackawanna junction, and that the engineer shut off steam quite a distance west of this crossing and applied brakes at the bridges about one-half mile west of the station. "There is a danger signal about 450 feet west of the Delaware and Lackawanna crossing; I was looking ahead after passing this point and saw no lights on train. I think we were running about eight miles per hour when we struck."

W. J. Barry, conductor of No. 14, swears that he left Elmira at 11.16 p. m., January 29th; left Waverly, 11.44 and struck train No. 12 at Owego, at 12.11 a. m. "When approaching Owego station at or near the race bridge I felt the application of the air brakes; the engineer held them about twice the length of the train, he then released them, and a few seconds before we struck No. 12, he applied the brakes again. The night was misty, with slight rain and snow, but I think lights could be seen clearly a quarter of a mile. When the collision occurred I was thrown one side, but immediately recovered and looked at my watch, it was 12.11. The best of my judgment is that we were going about sixteen miles per hour."

J. H. Parsons, superintendent of the Susquehanna division, says that the total damage to rolling stock is about \$3,400.

S. H. Smith, agent at Owego, swears that in his opinion there is only one way to account for this accident, and that is that the arc-lamps hanging in front of the Erie station were so much brighter than the lights on the rear of train No. 12, as to prevent the engineer of No. 14 from seeing the rear of No. 12 until he was almost on to it; this is assuming that the engineer was on the lookout.

H. Gilday, track walker, swears: "I met No. 12 west of water tank; tail lights were then burning."

Patrick Maloney, a passenger, says that he was in the waiting-room purchasing tickets; that accompanied by his daughter he passed out on the platform of the station; that his ticket was for the car "West End," the rear car; that he distinctly saw the green light on it, and at the same time saw a headlight from the west; that he boarded the sleeper and located his daughter and was going forward, and had nearly reached the platform when the crash occurred; that one platform seemed to slide under the other, thereby crushing in the end of both cars and catching him in the debris and holding him fast for over two hours.

Thomas J. Duffy, recalled, says that perhaps the electric light the corner of depot might have had a tendency to blind the eyes the engineer of train No. 14.

Philip Hogan, of Owego, swears that he saw a green tail light on the rear car of No. 12. He also swears that this train was at the station three or four minutes.

E. C. Ford, a resident of Owego, swears he was present at the accident in question and thinks that train No. 12 was at station about three minutes.

M. Cortright, of Owego, swears that he was at the Erie depot on the morning of the thirtieth and saw the trains collide. "No. 12 stood at the depot about four minutes before No. 14 struck her. I am proprietor of the Cortright House near the depot."

T. W. Harrington, operator, swears that No. 12 arrived at Owego at 12.08 and stood there about two minutes before being struck. "I had a report of No. 12 leaving Waverly, but none of No. 14's time."

T. F. Richley, operator at Waverly, swears that the recorded time of departure of train No. 14 this night was 11.50; that he is a little over sixteen years of age, has passed an examination and served at this station about two months.

In response to a request from Commissioner Rickard for a copy of the time sheet of trains Nos. 12 and 14, the night of the accident, the following was received:

"To Operator, Binghamton:

"No. 14 left Waverly 11.47; arrived at Owego 12.11.

"DISPATCHER."

The weight of evidence is very decisive that the tail lights on train No. 12 were burning just previous to the collision. The evidence as to the time of arrival of No. 12 is a question to be decided with care. The engineer and the conductor of train No. 14 swear that the time of collision was 12.11; the time sheet of dispatcher shows 12.11. The conductor of train No. 12 and the operator at Owego swear that the arrival of No. 12 was 12.08.

Rule No. 88 says that passenger trains running in the same direction shall keep not less than ten minutes apart. The leaving time of train No. 12 at Elmira was 11.07 and the leaving time of No. 14 was 11.16, but nine minutes apart. The leaving time of No. 12 at Waverly, sworn to by conductor, and which is verified by time sheet of operator at Owego, is 11.37. The leaving time at Waverly of No. 14, as sworn to by conductor and engineer, is 11.44, only seven minutes apart. The operator at Waverly, however, swears that the recorded time of No. 14's departure from Waverly was 11.50, or thirteen minutes apart, and the time sheet of dispatcher states No. 14 left Waverly at 11.47.

It will be seen that the evidence as taken from time sheets is contradictory, and as all such information must first come from the operator at Waverly, it must be carefully considered. This discrepancy as to the time of No. 14 leaving Waverly, as shown by time sheets, must eliminate them as a factor in determining this question, and the testimony of the crews of trains Nos. 12 and 14 be taken as positive that when leaving Waverly they were but seven minutes apart — a positive violation of rule No. 88.

If such was the fact why was not the semaphore displayed at danger to hold No. 14 until No. 12 had gone ten minutes? And, again, when the conductor of No. 14 registered at Waverly he should have learned how far in advance No. 12 was, either by an examination of the regis-



ter book or by asking the operator, and such information should have been transmitted to the engineer. The neglect to do this in either case calls for censure.

The failure of Waverly to report No. 14 to Owego as done with No. 12, the difference in time of departure of No. 14 from Waverly taken from the time sheet at this office, the youth of the operator for such an important place, all would seem to indicate that there was a violation of the rules governing the running of trains at that station on January 29th, 1890.

The duties of an operator at a station like this, on a trunk line, are responsible, and should be performed only by a person of mature judgment and experience.

There also seems to have been a violation of rule No. 88 at Elmira, where these trains were allowed to leave but nine minutes apart.

Here was a straight track for three-quarters of a mile; the condition of atmosphere was such that a light, properly burning, could be seen at least one-quarter of a mile, a sufficient distance to stop any train supplied with air brakes. That this was not done in this instance, leads to the inference that there must have been neglect somewhere.

The evidence of the engineer of No. 14, that he had orders to run one hour late, and that when he struck No. 12 he was at least one hour and eleven minutes late, is conclusive that he was not making up time.

The evidence of the conductor of train No. 12, that after taking charge of his train at Elmira he made his running time, is true; still, the condition of the atmosphere that night, and the knowledge that there was a train close behind, should have made him cautious, even if he was within the rules.

Mr. DeLavergne says he had no information as to the location of No. 12 after he left Hornellsville. Without doubt, if he had been notified at Elmira just what the condition of affairs was, he might have approached stations at a less rate of speed, expecting to find stations occupied. But here the question arises, why did he not see the tail lights of No. 12? The evidence is convincing that the lights were burning. Only one solution of this question can be entertained, viz.: that the rain and sleet covered the glass; that the lights were not turned up high; consequently, although burning, their light was materially diminished by the electric lights close by. It is a well-known fact that any colored light located near a white light is lessened in brilliancy.

There seems also to be a difference in testimony as to the period of time No. 12 stopped at Owego. The conductor and operator swear it was two minutes. Several other witnesses swear that the train stood there three or four minutes; these are witnesses that were familiar with the road and its train service. It would seem, therefore, that the time was near enough to the spirit of rule No. 96 to have caused the flagman to be near the rear of his train. If he was in such position he could have prevented this collision by the use of proper signals.

No person in train service can know just how long a train may be held in a station, and the proper observance of rule No. 88 would require that the flagman should always be ready at the rear of his train

perform his duty. There is no evidence to prove that this was done, and the fact that there was employed on this train No. 12 one more man than on other passenger trains, for this especial purpose, must lead to the opinion that this flagman failed to properly perform his duty.

The tail lights used on the rear of passenger trains on the New York, Lake Erie and Western railroad show a rear and front glass of about five inches in diameter, the latter green and the former red; these lights are placed in sockets either on the hood of the car or on the bevelled end of the body of the car. The suspended electric light at the depot, as referred to in the evidence, is about nine feet higher than the platform of the station, or about on a line with tail lights of trains. In view of this fact, and the testimony of witnesses that the electric light might dim the brilliancy of the red lights on the rear of trains, it is suggested that the rear of all passenger trains should have an additional "bulls-eye" lamp, with glass not less than eight inches in diameter exposed, this lamp to be attached to center of rear platform while in use.

All of the persons injured in this collision, with one exception (Mr. E. A. Latham, who was caught between day coaches), were in the telescoped ends of the two rear cars. This fact, taken in connection with the same statement of facts on the occasion of the accident near Sprakers on the New York Central and Hudson River railroad, caused by one platform sliding under another, thereby compelling the bodies of cars to stand the shock, instead of the platforms and frames, merits the careful consideration of all railway managers.

The Board suggests that some device be adopted and placed under the platforms of all passenger cars to prevent one platform from mounting another, thereby compelling the frame and platform to sustain the shock.

A careful review of the testimony leads to the conclusion that the rules of the New York, Lake Erie and Western railroad were ample to prevent this accident, if they had been properly observed.

The Board is of the opinion that the accident could have been avoided; that the operator at Waverly and the flagman on train No. 12 deserve censure; that Conductor Barry of train No. 14 should have ascertained at Waverly how far No. 12 was in advance, and should have notified his engineer; that the engineer of train No. 14 used poor judgment in approaching so near to Owego station at a speed of at least ten miles per hour, knowing that the electric light at the station had a tendency to dim red lights, and that the view was partially obstructed by rain and snow.

#### RECOMMENDATIONS.

*First.* The Board recommends that a "bulls-eye" lamp, with an exposed red glass of at least eight inches in diameter, be attached to the center of rear platform, during the night, on all passenger trains of the New York, Lake Erie and Western railroad, and trains using the tracks thereof, in addition to the lamps now in use.

*Second.* That all arc-electric lights at stations on this road be raised above the level of the tail lights as now located on the rear of passenger trains.

*Third.* That the rear trainman on all passenger trains be required to remain on the rear car, with instructions to be ready at all times to protect his train.

*Fourth.* The Board finds that the New York, Lake Erie and Western Railroad Company was at fault in employing so young a boy as T. F. Richley as operator at Waverly.

*Fifth.* That the New York, Lake Erie and Western, and all railroad companies, take into consideration the matter of equipping passenger cars with beams or bars under the platforms, so as to keep the platforms in line in case of collision.

By the Board.

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### III.

IN THE MATTER OF A COLLISION ON THE WESTERN NEW YORK AND PENNSYLVANIA RAILROAD, NEAR CUBA, ON JANUARY THE 11TH, 1890.

March 4, 1890.

The facts and circumstances attending the above accident, as developed by the reports of the company and correspondence therewith, were as follows :

Freight train, second 288, due at Olean at 3.40 A. M., was four hours and forty-nine minutes late. It reached Cuba about 7 A. M. Ordinarily it should have reached Olean before the departure of train 251. Way freight No. 251, north bound, reached Hinsdale on time, 7.05 A. M.

The train dispatcher, W. A. Gesse, sent orders to Hinsdale to train 251 and to Cuba to train second 288, simultaneously, to have them meet at Hinsdale, the first station south of Cuba. The operator, B. L. Forbes, at Hinsdale, repeated the order back and signed his initial to the same, which the company claims made it a holding order under the rules. Gesse then received a signature from the conductor and engineer of second 288 at Cuba and gave them his "correct" which allowed the train to start.

Just after they had started the operator at Hinsdale, Forbes, telegraphed Gesse that he had permitted 251 to go without signing the order and requesting the train dispatcher to hold second 288 at Cuba. It was too late, however, and the trains came together with the result of killing E. J. Walker, a brakeman, and injuring George Scott, a flagman.

Under the rule of the company train 251, bound north, had the right of track. Second 288, under the rules of the company, was bound to keep out of the way of train 251, unless specially ordered to meet at some point.

The operator, B. L. Forbes, was grossly negligent in permitting train 251 to leave Hinsdale after having received his orders to hold it. The company reports that he has run away and that nothing has been heard of him since the accident. It would thus appear that Forbes himself recognizes his gross culpability.

On the other hand, however, the Board is of the opinion that the rules of the Western New York and Pennsylvania Railroad Company, are not sufficiently clear or explicit in reference to the ordering of an inferior train up against the time of a superior train. Train 251 had

the right of road on this occasion; train second 288 should not have been ordered up on the time of train 251 until the train dispatcher had received an acknowledgment of the conductor and engineer of train 251 that they understood where the meeting point was to be.

The Board has had occasion a number of times to express its views upon this subject. Numerous accidents resulting in death and injury have been caused from the failure to observe such a rule.

The superintendent of the railroad company, Mr. R. Bell, reports that the rules adopted by the time convention were adopted by this road soon after they were issued, and a copy was sent to each division superintendent with orders to put them into effect; the Board does not find, however, in the book of rules of the railroad company transmitted to it any such rule, nor does it find it upon the back of the time-table.

The rule of the time convention alluded to is rule 510, which reads as follows:

"For an order preceded by the signal '31' 'complete' must not be given to the order for delivery to a train of inferior right until 'O. K.' has been given to and acknowledged by the operator who receives the order for the train of superior right. Whenever practicable, the signature of the conductor of the train of superior right must be taken to the order and 'complete' given before the train of inferior right is allowed to act on it."

It will be observed that the language of this rule is confused and ungrammatical. The sense of it, however, is that a train of inferior rights should not be ordered up upon a train of superior rights until the conductor and engineer of the latter train have received the order, and acknowledged their understanding of its intent.

The Board calls attention to its report on this matter in the case of the accident on the Rome, Watertown and Ogdensburg railroad, September 30, 1889, page 148, vol. 1, report for 1889; that on the Rochester and Niagara Falls branch of the New York Central road, July 1, 1884, page 215, first volume, report for 1884; that at Dieffendorf on the West Shore road, October 1, 1883, first volume, page 289, report for 1883.

The Board is informed that the company is compiling a new book of rules. It recommends the following rule to be inserted therein:

#### RECOMMENDATIONS.

The Board recommends that the Western New York and Pennsylvania Railroad Company adopt the following rule:

"When trains running in opposite directions are to be moved toward each other by special order, the engineer and conductor of the train having the right to road shall be notified, and their acknowledgment received, before orders are given to the inferior train; this rule shall only be deviated from in cases of emergency or accident when orders can not be communicated to the conductor and engineer of the train having the right of road. Meeting orders must not be sent to train at a meeting point when possible to avoid it, but, when so sent, special precautions must be taken by dispatchers and operators to insure safety; when practicable, there must be at least one telegraph station between those at which opposing trains receive meeting orders."

By the Board.

## IV.

IN THE MATTER OF AN ACCIDENT ON THE LAKE SHORE AND MICHIGAN SOUTHERN RAILROAD, MARCH 6, 1890, AT 8.06 P. M., NEAR HAMBURGH, IN WHICH SIX PERSONS WERE KILLED AND TWENTY-ONE INJURED.

March 24, 1890.

The facts and circumstances attending the above accident, as developed by testimony taken before Commissioner Rickard the day after the accident and by testimony taken before the coroner's jury on March 11th, 12th and 13th, were as follows:

Train No. 12, consisting of one locomotive, three baggage and express cars, three day coaches, four sleepers and one dining car, conductor, J. W. Houghtaling, engineer, Edward P. Mooney, left Cleveland bound east at 3.15 P. M. Nothing unusual occurred until the arrival at Dunkirk. As the train was about to leave that station at 7 P. M., the Cowell coupler upon the first sleeper, the Salina, gave way; the train pulled apart about four feet when the engineer stopped.

The coupler on the coach was of the Miller type, that on the sleeper the Cowell; these are what are known as the vertical-plane couplers and couple interchangeably.

The brakeman, Beckwith, testifies that he pushed the knuckle of the Cowell coupler back into place, shook it to see that it was all right and that it appeared so to him. The forward part of the train was then backed and the cars joined.

When the train pulled apart the two chains on each side of the coupling, which are intended to come into play if the coupling breaks, tore the staples from the car so that they were of no use. It also appears that the air-hose was pulled from the pipe on the day coach, in consequence of the air coupling having been frozen together by the drip from the steam coupling, so that no air could be transmitted to the rear sleepers and dining car. The car inspector appeared at this time with a new hose, but Conductor Houghtaling refused to have it put on, saying that he had air on the six forward cars and that he would not wait to have the coupling replaced so that air could be given to the rear sleepers.

It is proper to explain that under this condition of affairs, it was necessary to relieve the air from the rear sleepers, or "bleed" them as it is termed. This left the automatic brakes on the five rear cars perfectly useless. Under ordinary circumstances if a train pulls apart, the air-brakes on the rear portion set automatically.

Notwithstanding this defective condition of the brakes, the safety chains broken and the coupler probably in a defective condition, Conductor Houghtaling started for Buffalo. It further appears that he did not notify any of the crew except the engineer and forward brakeman, of this condition of affairs. The train held together, however until it reached a point near Hamburg station when it again separated between the same cars as before.

The separation was apparently first noticed by those on the forward part of the train, by W. M. Covey, a cab agent, who promptly informed Conductor Houghtaling. The latter immediately proceeded to

rear platform of the last coach. He testifies that he then pulled the bell-cord three or four times. Why he should have done this does not appear, for it was desirable not to stop the train but to continue it to prevent the rear portion running into it. It also transpired that he or some one else pulled the automatic brake-cord in this coach, which brought the train to a sudden stop. Houghtaling denies that he pulled the brake-cord and claimed that it must have been some one else. If it was some one else his identity has not been discovered. It is possible, however, that Houghtaling in his confusion did pull the automatic brake rather than the bell-cord. Whatever the facts as to this matter, they are not essential to the conclusions as to the culpability in this case.

The forward part of the train had hardly come to a stop when the rear portion, consisting of the four sleepers and dining car, rushed into it at a high rate of speed. The rear day coach mounted the platform of the forward sleeper and telescoped the latter, passing over the seats. It is probable that the day coach was somewhat narrower than the sleeper, admitting of this occurrence. The rear end of the next coach was somewhat crushed.

The killed and wounded were substantially all in the sleeper, or the last coach. The killed were: John T. Power, Pittsfield, Mass.; J. W. Flynn, Canton, O.; Mr. and Mrs. E. E. Stewart, Rochester; Mrs. J. D. Baucus, Saratoga; John Swan, colored porter, Salamanca.

#### CONCLUSIONS.

*First.* From the above statement of facts there can be but one conclusion as to the reckless culpability of Conductor Houghtaling. He should not have left Dunkirk until the air-hose had been replaced upon the car and the rear cars supplied with air, nor until the safety chains had been securely refastened, or other chains which are carried on the locomotive for just that purpose supplied.

His conduct in attempting to stop the train by pulling the bell-cord, as he states, or by pulling the brake-cord, as he may have done, showed also confusion of mind.

It is proper to say that inasmuch as he did leave Dunkirk with the rear cars in the condition they were, he should at least have notified the sleeping-car conductor and the porters and rear brakeman of such fact, so that they might have been on the lookout.

It appears from the testimony that he did none of these things. His conduct throughout is the more remarkable from the fact that he is a man of sixty-six years of age, has always borne a good reputation as a careful conductor and has never before met with a serious accident to his train.

The Board is also of the opinion that Engineer Edward P. Mooney showed bad judgment in leaving the station, inasmuch as Houghtaling had informed him that there was no air on the five rear cars. Mooney defends his conduct upon the ground that rule No. 2, printed upon the backs of the time cards, states that "Conductors will have charge of trains," etc., and that no conference having been requested by the conductor, it was his duty to obey him.

*Second.* The Board has made a careful examination of the Cowell coupler which gave away, first at Dunkirk and then at Hamburg.

It finds that the construction thereof is radically defective. The knuckle forming the hook is kept in place by a tongue which drops in front of an arm projecting into the drawhead from the rear of the knuckle, the whole knuckle pivoting around a pin. This tongue has a bearing surface upon the end of the arm of only about two and a half square inches. An examination of it clearly shows where the pressure is brought to bear.

In this case the edge had been much worn and broken away, leaving the bearing very materially less than two and a half square inches, and so slight as to enable the coupler to be jerked open. The portion of the edge broken was about two inches long and half an inch high at the widest part, just at the place where the principal pressure came. Moreover, this tongue is not kept in place by any spring or device, but simply depends upon gravity. It is quite possible that a sudden jerk would raise it so that the coupler would fly open.

The Board deems that such couplers are in the highest degree dangerous and should not be used.

*Third.* Great complaint has been made on account of the officials of this railroad and of other railroad companies, in accidents, refusing all information to the press. The Board recognizes the reasons for the indisposition of a railroad company to have the facts and circumstances in detail of an accident hurriedly given to the press by newspaper reporters before time has been had to carefully investigate, for the reason that mistakes are apt to be made to the great prejudice of the rights of the company. On the other hand, however, the Board deems that a brief statement of the salient facts of the accident, giving the names and the number of the killed and injured, could with propriety, and should be given by the railroad companies.

By the Board.

## V.

IN THE MATTER OF A COLLISION ON THE WESTERN NEW YORK AND PENNSYLVANIA RAILROAD, NEAR PORTAGE, MARCH 22, 1890.

April 15, 1890.

On March 27th a personal examination of the locality was made by a member of this Board; on the 28th an investigation by Coroner Dodge and Commissioner Rickard, at Nunda, elicited the following facts and circumstances:

On March 22d, at 8.58 p. m., trains 285 and 206 came in collision at Portage bridge, about one mile east of Portage station, on the Rochester division of the Western New York and Pennsylvania railroad.

Train 285 was a north-bound freight, consisting of an engine and forty loaded cars, A. R. McDonald, conductor, and J. A. Stout engineer.

Train 206 was a south-bound passenger train of one engine, one combination car and one passenger car, W. H. Godfrey, conductor, J. W. Warner, engineer,

The collision occurred on a very sharp curve, where an approaching train can be seen about 100 feet, and when both trains were making schedule speed. The heavily laden train after the crash forced back the lighter one along the line of rails for several hundred feet, then the locked locomotives turned to the west and tipped over on their sides.

G. Polson and P. Riley, brakemen on freight train 285, who were riding in the cab of the engine, were instantly killed; H. McGucken, an employee, on his way to Portage, riding in the cab of the passenger engine, was injured so badly that he died the next day at Nunda; two passengers, the Misses O'Brien, were slightly injured; Conductor Godfrey and Engineer Warner and Engineer Stout were seriously injured.

The special rules governing the running of trains on this road say:

"North-bound trains have absolute right of track over south-bound trains of the same or inferior class."

No. 285 was a north-bound freight, scheduled to leave Olean at 1.15 p. m., but on this date was three hours late at Rossburgh, arriving there at 8.03 p. m. No. 206 was a south-bound passenger train leaving Rochester at 6.05 p. m., and runs to Portage only, arriving there at 8.45 p. m., and having right of way over freight trains.

Train No. 286, which is connected with this investigation, was a south-bound freight, scheduled to leave Terminal at 12.15 p. m., and at Mt. Morris was about five hours late.

G. P. Jackson, train dispatcher at Olean, swears that on March 22d he gave an order to train 285 not to pass Rossburgh without orders; that when 285 arrived at Rossburgh he gave orders at 8.21 p. m. not to pass Nunda without orders; that a few minutes after this the operator at the Delaware, Lackawanna and Western junction at Mt. Morris notified him that train 286 was coming; that he then saw he could make a positive meeting point between 285 and 286; that he then called Rossburgh and sent another order for 285; that the operator at Rossburgh said the latter crew were in the office; that he then called Mt. Morris and sent this order, No. 94, to Rossburgh and Mt. Morris, at 8.27 p. m.:

"C. & E. 285, Rossburgh.—C. & E. 286 at Mt. Morris.

"Nos. 285 and 286 will meet at Nunda."

That this order was sent simultaneously; that both offices took it at the same time; Rossburgh repeating the order back almost immediately; that he then wrote the order in the order book just as Rossburgh repeated it, and that then he gave him the "complete."

That Mt. Morris then repeated the order and as repeated, he underscored the words and figures on his order book, as is customary, to show that both offices received it alike. He swears positively that he sent this order 94 as stated, and is positive that the operator at Rossburgh repeated it to him in that way.

H. G. Hall, an operator, swears that he was in the dispatcher's office at Olean, on March 22d, and heard order 94 sent to Rossburgh and Mt. Morris, "Nos. 285 and 286 will meet at Nunda;" that he also heard this order repeated from Mt. Morris and Rossburgh just as it was sent, except as to signature.



## ACCIDENTS.

William Metcalf, operator at Terminal, swears that about 8.30 he had order 94 sent to Rossburgh, and it was "285 and 286 will meet at Nunda."

N. Dye, operator at Mt. Morris, swears that he received order Nos. 285 and 286 will meet at Nunda."

C. Neil, night operator at Rossburgh, swears that on Friday the he worked all day for the agent who was sick; that he also performed his customary duties as operator on Friday night; that on Saturday the 22d he slept during the forenoon and took a nap in the afternoon and went on duty at 6.30; that at 8.08 train 285 arrived, when he received order 93 and made it complete at 8.21 (this order was for 285 not to pass Nunda without orders); that he gave this order to the engineer and conductor; that sometime between 8.03 and 8.21, the engineer Stout of train 285 asked him how 206 was; that he asked the trainmaster, and they answered, "Not yet;" that about this time the trainmaster asked him if he could get 285; that he said, "Yes, the train is in the office;" that then the dispatcher sent him order 94, which he took on manifold form and recorded.

Nos. 285 and 206 will meet at Nunda." He then continues:

"I received this 'O. K.' at 8.27 p. m., and gave a copy to conductor and engineer, and kept one myself. I repeated this order back to the dispatcher just as I got it from the paper, but I gave him the signatures of the conductor and engineer *before* they had signed the order. I did this because I had done it before, had seen others do it, but I knew it was a violation of orders.

The order-book of the train dispatcher was produced and order 94 copied therein, as the dispatcher testified.

Two copies of train order 94 received at Rossburgh were produced and sworn to; one by A. R. McDonald, conductor of train 285 and one by C. Neil, operator at Rossburgh, as follows:

Order 94 — Nos. 285 and 206 will meet at Nunda."

It thus appears that four persons, i. e., G. P. Jackson, the train dispatcher, H. G. Hall, William Metcalf and A. N. Dye, swear that order No. 94 to Rossburgh was for trains 285 and 286 to meet at Nunda; whereas, on the other hand, D. C. Neil, the operator at Rossburgh, swears he understood the order to be for 285 and 206 to meet at Nunda, and thus delivered it, repeated it back to the train dispatcher and received "correct." Had it not been for this misunderstanding train 285 would have kept out of the way until *past* train 206 had passed.

Previous to December 8, 1889, it was the custom on this road to put out the numbers of trains, in addition to the figures, on train orders; after that date, and until this accident occurred, the writing of numbers was discontinued, and figures only were used for the purpose. This latter system has been changed recently to the one in use previous to December 8, 1889.

It also appears from the testimony of Mr. Jackson that train dispatchers are on duty eight hours out of twenty-four, but that he has no clerks or assistant operator on duty with him. The testimony of operator Neil shows that he was on duty thirty-six consecutive hours, then after seven or eight hours of rest went on duty again. Neil and Jackson are operators of long experience, faithful to duty and of the best character.

The fact that Jackson sent the order as he swears he did and that it was repeated back to him as sent is apparently proven beyond reasonable doubt. The mistake, therefore, must have been made by Neil, the operator at Rossburgh.

The Board recommends:

*First.* That operators should not be required or permitted to work more than twelve hours in the twenty-four.

*Second.* That in train orders the designation of a train should be by spelled words as well as by figures.

By the Board.

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## VI.

IN THE MATTER OF A PETITION OF CITIZENS OF BUFFALO FOR AN INVESTIGATION AS TO THE PROBABLE CAUSE OF THE EXPLOSION OF THE BOILER OF LEHIGH VALLEY RAILWAY LOCOMOTIVE No. 261, AT BUFFALO, MAY 11, 1890.

July 15, 1890.

The facts and circumstances attending this explosion, as developed by testimony taken before Coroner Kenney, and by examination of portions of this boiler by a member of the Board, are as follows:

On May 11th locomotive No. 261, of the Lehigh Valley railroad, while hauling a train of freight cars on the Buffalo Creek road at the junction of the Buffalo, Rochester and Pittsburg railroad, exploded, instantly killing G. W. Pearl, engineer, and Henry J. O'Connor, fireman.

On May 19th a petition, numerously signed by citizens of Buffalo was received, asking this Board to make an investigation as to the probable cause of the explosion.

On May 30th a Commissioner made a personal examination of the several parts of the boiler that had been gathered together and removed to Sayre, Penn., the mechanical headquarters of this division of the Lehigh Valley road.

At the examination before the coroner, James N. Weaver, master mechanic of the road, swore that he made a thorough examination and investigation of the matter and observed the following condition of parts of the boiler: The crown sheet was down and warped; baggy between crown bolts; crown bars torn from fastenings; the stay bolts between inner and outer shell of fire-box were pulled through the fire-box sheet without disturbing the thread on the ends of stay bolts or in the side sheet, showing that the sheet had been very hot to expand enough to allow this to occur.

He further said that the boiler was well made and safe; the stay bolts were of a blue color, indicating that they had been hot. He attributed the explosion to low water.

John Murphy, master mechanic of the New York, Lake Erie and Western railroad, testified that he made an examination of the several parts of the boiler soon after the explosion and observed that the crown sheet was badly bent, showing high pressure and low water.

James Downing, a boiler maker, swore that he had had thirty-five years' experience; that he made a careful examination of all the parts of this boiler and found no visible defect that would cause such an

explosion; that a boiler like this would last fifteen years, and that he found it cut lengthwise of sheet, an indication of immense strain.

John M. Richards, a boiler maker, testified that he examined the wreck and found that the crown sheet had been hot and warped, caused by low water.

That this boiler was eight years old and constructed as follows: Shell, seven-sixteenths; crown sheet, three-eighths; fire-box, side sheets, five-sixteenths; flue sheet, half an inch; all steel sheets. That in April, 1889, a new flue sheet was put in, as were also new crown bolts where required. The witness further testified that the side sheets of this fire-box had been hot, and the top flues had been burnt, and that the direct and only cause of this was low water.

James Runingham, foreman of machinery, testified that this engine was in the shop March 25, 1890, for repairs to leaky water bars; that he noticed a stay bolt in back end of fire-box leaking; that he sounded it and found it broken; that he then sounded all others in the fire-box, and that this engine went out of the shop on March 30th in perfect condition.

This witness also testified that about thirteen months previously two patches had been put on the side sheets of the fire-box, and that these patches went the whole length of the fire-box and were eight inches deep and riveted to the mud ring; that the boiler before going out of the shop had been tested at 160 pounds pressure.

Wm. B. Hickman, the engine dispatcher at Buffalo, testified that the boilers are under his supervision and are examined once a month and sometimes oftener.

Hiram Connor, a locomotive engineer on the Lehigh Valley road, swore that he had charge of No. 261 from April 25th until May 10th, 1890, drawing gravel; that he carried 138 pounds pressure of steam; that on the latter date he did the necessary work on the engine, and before leaving went into the fire-box and did not see any leak, and considered the engine safe.

The examination at Sayre developed the fact that the explosion was an upward one; that excepting a bent driving axle the machinery of the locomotive was comparatively intact. The forward portion of the cylinder part of the boiler was comparatively normal; thence to throat sheet it was slightly out of circle. The steam pipes in the smoke-box were broken, as were also the spark-arresting appliances. It was noticed, however, that every flue was in its place in front flue sheet with beading in good condition. At the fire-box end the flues were all exposed and entirely separated from the flue sheet; the top rows of flues for about fourteen inches downward were slightly sagged; below this point they were straight.

The crown sheet had sagged several inches in the center, and between each crown-sheet rivet the surface was more or less depressed. The crown sheet was free from scale; the crown bars and their rivets together with crow-feet lugs, were found uninjured. The whole wago top had been separated from the cylinder part of the boiler and fire box; the steam dome on this portion was not disturbed, except that the appliances for the "pop" safety-valves were destroyed. The boiler was equipped with two self-acting valves — one of the Richardson type, two and a quarter inches in diameter, and one of the Baldwin design, three and one-quarter inches in diameter.

Patches eight inches deep were observed on each side sheet, running down and riveted to the mud ring. Where they were riveted to the side sheets they were not disturbed, but at the mud rings these patches were torn from every rivet, and at all fractures the parting was irregular.

It was also observed that for fourteen inches downward from the crown sheet the stay bolts remained in the outside sheet and were not broken, and that the thread on these bolts and in their corresponding holes in the fire-box sheet were not injured; below this point the stay bolts were broken close to the sheet.

The flue sheet was practically torn in pieces, and nearly every union was broken and the fractures were irregular in shape. The fracture in the throat sheet commenced at a point about ten inches below the line of crown sheet and ran nearly lengthwise of the sheet and was as clear as if cut by shears.

The following portions of the boiler were selected for examination and tested: A portion of sheet where clean fracture occurred; part of the crown sheet, a stay bolt and a piece of side sheet of fire-box.

An examination of the first-mentioned part has been made by Prof. Palmer C. Ricketts, of Troy, N. Y., a copy of whose report is on file in this office, with the following results: A piece of the boiler shell one inch wide and seven-sixteenths of an inch thick, when tested developed 42,000 pounds per square inch; ultimate strength, 55,300 pounds per square inch; reduction of area at fracture, sixty per cent; extension in eight inches, 17.9 per cent.

This last item is a little too small because a portion of the measured length was within the jaws of the testing machine and could not stretch. Had the full measured length of eight inches been outside of the jaws of the machine, the stretch would probably have been about twenty per cent.

These results indicate the metal to have been of an excellent quality. A portion of the crown sheet one inch wide and half an inch thick, was bent cold back to back, and a careful examination failed to reveal any apparent crack in the fiber of the metal. This would indicate that the metal was of good quality.

The engine in question, No. 261, was built at the Baldwin Locomotive Works in 1883. It was overhauled and inspected at the company's shops at Sayre, Pa., in April, 1889, and tested at 175 pounds pressure.

Wm. S. Stephenson, general northern superintendent of the Lehigh Valley railroad, in a communication to this Board dated May 25th, inclosed a blue print showing the location of the accident and the distance that the parts were thrown, as follows: The cylinder part of the boiler was thrown 120 feet; the wagon top, with dome attached, 235 feet. The body of the engineer was thrown 225 feet; the body of the fireman was thrown 660 feet.

The cause of boiler explosions has been a subject of much thought by men eminent in their profession; it has been the theme of many able and learned articles in scientific journals, each presenting a theory satisfactory to the writer. It would seem, however, that three causes are important factors in such accidents, viz.: structural weakness; second, over-pressure with sufficient water, owing to failure of

safety-valve to release; and, third, over-pressure with scarcity of water.

In the first cited instance, when an explosion occurs, there is the simple giving away, with no great destruction of the parts. In the second instance, more serious results are observed, but a view of the tubes and other parts will show (if the boiler had been in use for any considerable time) a coating of scale still adhering to the parts. In the last instance, where cold water has been thrown on dry, hot sheets, it will be seen that these several parts are comparatively free from scale, that the surface is clean and a blue tinge is given to all such parts.

The fact that this crown sheet was free from scale, and that it was baggy between each crown-bar rivet would seem to indicate that it had been dry, and the fact that the stay bolts for fourteen inches downward from the crown-sheet were drawn from the sheets of the fire-box, leaving the thread on the ends of the stay bolts and in the corresponding hole in the sheet intact, must lead to the conclusion that this sheet had been hot and expanded enough to let the stay bolts draw through.

The fact also that the top rows of flues, extending down the same distance, were sagged, and below this point were straight, would indicate that to this point all the parts of flues and fire-box had been dry.

The desire (it might be said, the demand) of the public for increased speed, and of the railroad companies for increased tonnage of freight trains, has necessitated the construction of large boilers to furnish the required amount of steam, not alone for motive power, but for other uses incident to modern improvements and recently enacted statutes.

Larger locomotives require increased pressure, and to-day 160 pounds pressure is seen as often as was 130 pounds a few years since. This increase of pressure, together with the fact that the size of boiler shells are advanced to sixty inches and upward in diameter, must lead to the conclusion that the greatest care should be taken by *all builders* in the matter of material and in increased staying and bracing. It should not be deemed sufficient for its use in a boiler that a sheet had the manufacturer's brand on it. Every sheet should be examined as to its individual excellence, and it is suggested that the reinforcing of boiler plates at the throat sheet be taken into consideration.

The examination of boilers should be thorough and frequent, and any evidence of broken stay bolts or other defects affected by pressure should receive *immediate* attention. This line of duty, if strictly adhered to, would prevent explosions from structural weakness. The other causes of over-pressure would seem to be entirely under the control of the operative, and the only way to prevent accidents from such causes is to employ competent persons and not permit or require them to be on duty an unreasonable number of hours.

#### CONCLUSIONS.

The complete destruction of the fire-box of this boiler shows immense pressure; the manner of the tearing away of the sheets from the rivets at the mud ring shows the good life of these sheets; the pulling out of the stay bolts from the side sheet without destroying the

thread on the bolts or in the sheet, must lead to the conclusion that the sheet had expanded enough to allow this, which could not be done if the sheet was covered by water. The entire absence of scale on a crown sheet that had been in service thirteen months is evidence that that sheet had been dry and hot.

The test made by Prof. Ricketts shows the steel in shell to be of good quality. The cold test of a portion of the crown sheet, a piece that would have quickly shown it if the steel was at fault, was very satisfactory, demonstrating beyond a doubt the excellence of material.

Notwithstanding the fact that the officers of the Lehigh Valley railroad testify that G. W. Pearl was a careful, competent man, the facts and circumstances indicate that the explosion of Lehigh Valley railroad locomotive No. 261, on May 11th, 1890, was caused by allowing the water to get too low and then forcing cold water over a dry, hot surface of flues and crown sheet.

By the Board.

## VII.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK AND CANADA RAILROAD, OPERATED BY THE DELAWARE AND HUDSON CANAL COMPANY, ON THE MORNING OF AUGUST 27TH, 1890, BY WHICH A. STAFFORD, ENGINEER; J. BEST, FIREMAN, AND J. MCFARRAN, BRAKEMAN, WERE MORE OR LESS SERIOUSLY INJURED.

September 15, 1890.

The facts and circumstances attending the above accident, as developed by an examination of the premises by one of the Commissioners soon after the accident, and from information given by C. D. Hammond, superintendent, and A. J. Swift, chief engineer of the road, were as follows:

As an extra freight train going north on the morning of August 27th, 1890, had reached a point about two miles north of Crown Point, the track gave way under the train and for a distance of over 200 feet settled to a depth of about thirty feet, letting the engine and several cars into the hole.

The engineer, Stafford, and fireman, Best, both jumped, receiving severe injuries, and head brakeman J. McFarran went down with the wreck and was also seriously injured.

The road-bed at this point is against a high ledge of rocks on one side, and is formed of rock and earth and riprapped with broken stone on the slope on the other side.

The weight of the mass of earth and rocks thus sinking suddenly under the train was so great that a new bank or shore of Lake Champlain was formed 150 feet further into the lake by forcing the lake bottom to the surface.

It is evident that the road-bed was constructed at this point on or over a quick sand which has been gradually undermining it with the result as above set forth.

The break has been trestled with strong timbers and is guarded night and day by bridge carpenters. It is believed that the mass hat sunk has reached a solid foundation and that the road can be reconstructed on such foundation.

## RECOMMENDATIONS.

The Board recommends a thorough sounding be made to ascertain whether the foundation is safe beyond question to hold a reconstructed road-bed before it is commenced, and if not found absolutely safe, that the road at this point be carried to the west on rock foundation.

By the Board.

## VIII.

IN THE MATTER OF THE DERAILMENT OF NORTH BOUND PASSENGER TRAIN No. 13 ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD AT STAATS CROSSING ON SEPTEMBER 4, 1890, AT 11.40 P. M., RESULTING IN THE FOLLOWING INJURIES TO PASSENGERS: MISS ATKINSON, TREMONT, N. Y., NERVOUS FRIGHT; WILLIAM ATKINSON, SLIGHT WOUND ON LEG; C. COOPER CLARK, STANFORD, CONN., SLIGHT BRUISES; MRS. H. GERIKEN, BROOKLYN, SLIGHT CUT ON HEAD.

September 22, 1890.

An examination of the scene of this accident a few hours after it occurred was made by a member of this Board.

It appears that train No. 13 on this date ran in two sections. The second section (the derailed one) was in charge of M. McAuliffe, conductor, and Charles White, engineer, and was made up of eight cars, all vestibule sleepers.

The second section passed Castleton about fifteen minutes after the first section, and at a point known as Staats' crossing about four miles east of East Albany station at 11.40 P. M., the entire train, except the engine, was derailed. The tender of the latter was also thrown from the track.

At the examination of this engine, No. 843, no evidence was found that the pilot had struck any obstruction. The left forward truck wheel of the locomotive had a portion of its flange two and one-half inches long and one-half an inch deep cut out. This flange is on a steel tire shrunk on a cast iron spoke wheel. A slight damage to rods of driver brake was the only damage to engine. The tender had small injuries incident to running over the ties 600 feet.

When the train stopped it was found that the engine was uncoupled and separated from the first car four feet; that this car, the "Melbourne," was on its side with trucks still attached, east of north bound track; that the car "Carlisle" was lying at the bottom of the embankment parallel with the track bottom side up and stripped of its trucks. The "Orinoco" was at right angle with the tracks, one end on the embankment, the other close up to the south end of the "Carlisle." This car had the trucks torn from its body. The fourth car in the train leaned toward the east but did not topple over. The remaining cars in the train turned toward the west and ran over the ties toward the south bound track.

The first indication of derailment—the point where the flanges of wheels first struck the ties—was about ten feet from the culver from this point for about 600 feet north the track was torn up, ra

bent, separated and forced out of line, the ties broken, crushed and displaced.

About 300 feet from the point of derailment the trucks of two cars and one pair of another were found in a heap. It is believed that the forward truck of the "Carlisle" was imbedded in the soft road-bed at this point, that the center-pin on its casting was broken together with the safety-chains, and that this truck caught the others as they approached and when the bodies were separated from the trucks they were thrown in the position found.

These cars are known as the vestibule type, of superior workmanship and extreme strength of construction in every detail. To this latter fact must be attributed the safety of the passengers, for an ordinary car, under like circumstances, would have been crushed.

At the place of the accident there is a waterway or cattle-guard which is about four feet wide which passes under both tracks; short stringers are placed over the opening. There is a floor system consisting of one tie resting over north wall, one over south wall and one tie in the space in the middle. It was found that this middle tie was crushed at its east end and driven north until it came in contact with the tie over north side of the wall. There was also evidence that something had come in contact with the bottom of the east rail of north bound track and the end of tie on the south wall; also the mark of a rail that had been left on its side was seen on this middle tie.

On the west side the mark of a rail laid on its side was found on this middle tie; it also appeared that the end of a rail had been placed under the main rail of track, as an impression was clearly seen of the end of a T rail in the wooden stringer.

Five pieces of rail were found at this point, from four to twelve feet in length, showing fresh fractures. One piece had a portion of its flange broken off close to the web for about eight inches. This was done apparently by the forward truck wheel of the engine. The force of this blow was sufficient to cut a piece out of the tire and break the flange of rail, thereby allowing engine to keep on its track. If this had not occurred the locomotive in all probability would have followed this rail as designed and gone down the bank to the east.

Charles White, the engineer, states that he passed this point at 11.40 p. m.; that he was running about thirty-five miles an hour; that he was looking ahead from the side window of the cab; that his head-light was burning brightly; that he did not see any obstruction on the track.

The fact that the pilot passed over without touching is evidence that the impediment was less than five inches above the rails. The marks on the ties show that rails had been placed on their side with ends under the rails of main track in the form of an inverted V, in such a manner that they would not slide when the shock was received, but would be forced into the ties like a wedge.

There can be no question but what these rails were placed in the position described with the intention to wreck the train by some person or persons somewhat familiar with railroad construction. That loss of life and so little injury to person occurred was almost a miracle. Strenuous efforts are now being made by the company to apprehend and bring to justice the perpetrators of this most infamous crime.



## IX.

IN THE MATTER OF A SIDE COLLISION AT GENESEE JUNCTION BETWEEN WEST SHORE AND WESTERN NEW YORK AND PENNSYLVANIA RAILROADS' FREIGHT TRAINS, ON JULY 15, 1890, AT 1.35 A. M., RESULTING IN THE DEATH OF WALTER W. HARRIS, ENGINEER, AND WILLIAM COLLOPY, FIREMAN.

September 22, 1890.

An examination of the premises by a Commissioner, together with evidence taken before a coroner on July 17th, elicits the following facts and circumstances:

It appears that at Genesee Junction the West Shore and the Western New York and Pennsylvania railroads cross at right angles at grade. This crossing is protected by swinging gates erected for each road. When either gate is placed for danger by day a red disc about three feet in diameter is exposed in the center of the track about ten feet above the top of rails. A danger-signal lamp, with glass eight inches in diameter, is placed in an opening in the center of the day target for signal service at night.

These signals are operated by employees detailed for this specific purpose.

It appears from the testimony that freight train No. 290, on the Western New York and Pennsylvania railroad, in charge of Moses E. Rockafellow, conductor, and Charles Miller, engineer, arrived at this junction about 1 A. M., July 15th; that this train of twelve cars and caboose was placed on the western or Buffalo Y which connects this road with the West Shore road; that the crew then proceeded to the track of the Western New York and Pennsylvania railroad for additional cars, and when these cars were obtained they were placed with the others already on the Y, making nineteen cars in all and a caboose. This number was larger than the Y would hold and clear the main tracks of the West Shore and the Western New York and Pennsylvania.

A little before 1 A. M., train No. 285 on Western New York and Pennsylvania, arrived at this junction, and as trains bound north on this road have the right of way, train No. 290 was moved ahead on the Buffalo Y far enough to clear the Western New York and Pennsylvania main line to allow No. 285 to pass. This action caused the engine of the train on the Y to stop over the frog which connects the tracks of the Buffalo Y and the West Shore, thus occupying a portion of the latter's main track.

A fast freight on the West Shore road, consisting of engine No. 55 and thirty-eight cars (eight of which were equipped with the air-brake and on head of train) in charge of Conductor T. E. Fay and Engineer W. W. Harris, approached from the east, gave the usual signals and stopped about 1,000 feet east of the crossing. At this point the gatender at the crossing signalled to it that the track was clear and the train passed over the junction 480 feet westward, and struck the locomotive of the Western New York and Pennsylvania on its side at the rear of cylinder. Both engines were derailed, that of the West Shore going toward the south, and that of the Western New York and Pennsylvania toward the north.

At 3.30 A. M. the body of W. W. Harris was taken from the wreck. The fireman, William Collopy, when taken out was yet alive; he was brought to the City Hospital in Rochester, where he died at 9.30 A. M.

Conductor Rockafellow, of the Western New York and Pennsylvania railroad, testified as follows:

"When the north bound train on our road pulled in behind us we had to go ahead about one and a half car lengths. I signalled Miller to do so. The engine then extended out on the West Shore tracks. I then went to our station and had gate tender been in view, would have told him we were on the West Shore tracks. The gates were then turned for our road and against the West Shore. I did not consider it necessary to send out a flag to warn West Shore trains as the targets are *supposed* to be our protection while using these tracks. I could see from the crossing that our engine extended upon the main track of the West Shore far enough to block it. I was about 400 feet north of the West Shore track when I heard the West Shore train whistle off brakes. I looked and saw that the gates had been turned against the Western New York and Pennsylvania. I knew an error had been made by the gateman and I ran towards the West Shore tracks to flag this train. I had to run about 400 feet, but the train passed the crossing 400 feet before I got there. I think they were running about thirty miles an hour when the accident occurred, and they did not stop at the crossing."

Engineer Miller testified that his engine blocked the main track of the West Shore for about twenty-five minutes and that he did not send word to the gateman that such was the fact; that he heard the West Shore train whistle, and then told his brakeman to flag it and *supposed* he did; that he had no right to block the tracks of the West Shore without sending a flag to warn approaching trains.

F. Milliman, head brakeman on the Western New York and Pennsylvania railroad, testified that there was no flagman sent out east or west and that it has never been the custom at this junction, but *supposed* it should be done.

Edward La Force, the gate tender, testified as follows:

"After Miller, the engineer of the Western New York and Pennsylvania train, did his switching he backed down on the Buffalo Y. A little before 1 A. M. a freight train going north blew for the target. I gave this train the right of way which blocked the West Shore. The rear of Miller's train on the Y extended over on the main track of the Western New York and Pennsylvania, so that the north bound train could not pass. I saw signals given Miller to go ahead; he did so. When Miller's conductor came up I asked him if his train would have to go over on the West Shore track again. He said he hoped not. I then went into my shanty, the signals being set against the West Shore. While I was in the shanty the north bound train passed over the crossing. I then saw a West Shore train coming; it blew for the target which I did not give the first time it signalled; the train then came to within about 1,000 feet of the crossing, stopped and whistled off brakes. Then I swung the gate giving them the right of way. I could see the switch lights where the accident occurred and swear positively that they showed white on this night, thus indicating to me that the track was clear. This train when it passed the junction was not running over seven or eight miles an hour."

T. E. Fay, conductor of the West Shore train, testified that there were thirty-eight cars in his train, eight of which were loaded and equipped with air brakes; that his train was running not to exceed ten miles an hour when the collision occurred; that he was positive that his train came to a full stop about 1,000 feet east of the crossing.

H. V. Dutton, a brakeman on the West Shore train, testified that he was on the forward car when the train came to a dead stop at a point east of the crossing about 1,000 feet; that when the accident took place the train was going about ten miles an hour.

I. V. Parsons the rear brakeman of the West Shore train testified substantially the same.

The fact that the West Shore train came to a full stop at the junction is clearly proven. As to the rate of speed when the collision took place, there is conflicting testimony. Rockafellow thinks the speed was thirty miles an hour; Miller and Milliman think it was about twenty miles an hour.

The facts that this train was a large one, that the locomotive drawing it was second-class in power, that the distance from the point where train stopped first to the point where the collision took place is but 1,450 feet, must lead to the conclusion that a speed of twenty or thirty miles an hour could not be obtained.

It will be observed that Rockafellow testified that when he heard the West Shore whistle off brakes (a point several witnesses swear was 1,000 feet east of the crossing), he was then 400 feet north from the West Shore tracks; that the train passed over the space sworn to, together with 450 feet additional westward, in all, 1,450 feet, while he was running 400 feet. In other words, the speed of the train when passing over the crossing was about three times as fast as he could run in the night with signals. This would seem to indicate that his testimony as to speed of train is not sustained.

It is proper to say that evidence was given before the coroner that on several occasions in the day time, trains on the West Shore road had passed over this crossing without coming to a full stop. The rules of the company are explicit, however, that trains should come to a full stop, and in addition to the rules there is a written copy of instructions posted at this station.

The direct conflict in the testimony of Conductor Rockafellow and the gate tender is apparent. The latter asked a question, which was very natural under the circumstances, that was as to the blocking of the West Shore tracks *again*. This would lead to the conclusion that although the track had been obstructed it was then clear. The conductor swears that he had no conversation whatever with the gate tender before the collision. He also testified that he knew his train blocked the West Shore track. Was it not his duty to see the gate tender and tell him that such was the fact? It should not be considered for a moment that this gateman could know the situation the night time and at a point 450 feet from his point of lookout. The additional fact that he observed the switch lights, one about 200 feet and the other about 100 feet west of the point where the Western New York and Pennsylvania engine stood, must lead him to think, in the absence of any information from the train crew, that the West Shore track was clear.

D. B. McCoy, superintendent of this division of the West Shore road, states that the duties of these gate tenders are wholly to guard this crossing; that they have no other duties to perform, and that it would be an infraction of discipline for them to leave their posts in a matter of this kind during their hours of service.

It will be noticed in the testimony of the crew of the Western New York and Pennsylvania train that they *supposed* certain duties had been performed, and should be performed, but had not been.

This is entirely wrong. No supposition should be entertained in a question of this kind. Absolute safety should be the first consideration.

The fact that the superintendent of the West Shore defines the duties of these gate tenders and holds them only responsible for the safe passage of trains over this crossing, together with the fact that La Force was not notified of any obstruction on the track 450 feet from his shanty, and that from his point of lookout (south of the West Shore tracks) he could see the switch lights at the junction of the Buffalo Y with the West Shore main track, showing safety lights, caused him to believe, as he had a right to, that the way was clear, and when the West Shore train whistled for the target he gave it.

The only criticism that can be made against the crew of the West Shore train is that it was stopped 1,000 feet east of the crossing, thereby not conforming to section 5, chapter 439 of the Laws of 1884, which requires the stop to be not more than 800 feet from the crossing. This stop was made at night, however, with a heavy freight train, and the Board does not think that it was a violation of the spirit of the law.

#### CONCLUSIONS AND RECOMMENDATIONS.

*First.* The Board finds that Charles Miller, engineer, and Moses E. Rockafellow, conductor of train No. 290 of the Western New York and Pennsylvania Railroad Company were directly responsible for this collision, in that the engine of the Western New York and Pennsylvania railroad was permitted to encroach and stand upon the main track of the West Shore railroad without signals being sent out to protect the same, or inform the gateman at the crossing.

*Second.* Genesee Junction is a point where considerable interchange of traffic is done between the West Shore and the Western New York and Pennsylvania railroad. The employees of both roads pass over portions of both lines in the discharge of their duty. It would be safer, therefore, to have some particular person, other than the train crew, responsible for the changing of switches on the main tracks, and the Board so recommends.

*Third.* It would also be safer to make a rule that when employees of the Western New York and Pennsylvania railroad are using any portion of the West Shore track, that they must send out a flag regardless of the target at crossing or the yard limit order in the book of rules. The same action should be taken by West Shore employees when using the tracks of the Western New York and Pennsylvania railroad, and the Board so recommends.

By the Board.

## X.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK AND CANADA RAILROAD, OPERATED BY THE DELAWARE AND HUDSON CANAL COMPANY, AT BULWAGGA, ABOUT ONE MILE SOUTH OF PORT HENRY, AT 12 O'CLOCK, NOON, AUGUST 19, 1890, BY WHICH F. CARRIER, ENGINEER, AND D. TERRY, BRAKEMAN, WERE KILLED, AND C. PARKS, FIREMAN, WAS SO BADLY INJURED THAT HE DIED THE NEXT DAY.

September 23, 1890.

The facts and circumstances attending the above accident, as developed by an examination of the premises by one of the Commissioners soon after the accident, and from information given by C. D. Hammond, superintendent, and A. J. Swift, chief engineer of the road, were as follows:

The engine of an extra north-bound freight train left the track at the ice switch at Bulwagga, about one mile south of Port Henry, at 12, noon, on the 19th of August, 1890, and turned over on its side, eight freight cars piling on top of it, killing Engineer Carrier and Brakeman Terry and injuring Fireman Parks so that he died the following day.

It appears that an extra switch and side track had been put in at this point to reach some large ice-houses; that the switch is a split-point or Clark-Jeffrey switch, with a Snow standard. This switch is so constructed that, although it might be set to allow a north-bound train to run in on the side track, a south-bound train passing it will set it right for the main line.

It appears that shortly before this accident both a south-bound and a north-bound train had passed this point. The latter was followed by the extra freight train which ran off as above stated.

The switch was found unlocked, with the lock hanging on top of standard, and the switch set for neither track squarely, but about half way. The target of the switch was half way at danger and the engine was found with steam shut off and lever reversed, indicating that the engineer had discovered the danger, but too late.

The trackmen deny having unlocked the switch, and no one was known to have a key except the trainmen and section boss.

The switch appears to be in perfect working order, and the idea of it having been tampered with maliciously is not entertained by the officers of the road.

This appears to be one of those cases where the most thorough investigation fails to throw any light upon the subject. It is apparent that some one had tampered with the switch, but whether maliciously or carelessly it is impossible to state.

By the Board.

## XI.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK AND CANADA RAILROAD, OPERATED BY THE DELAWARE AND HUDSON CANAL COMPANY, ON THE MORNING OF SEPTEMBER 5, 1890, ABOUT ONE-HALF MILE NORTH OF HOWARD'S SWITCH, BY WHICH THOMAS MURRAY, ENGINEER, JAMES STARR, FIREMAN, AND ALPHEUS G. HIFFIN, WHO WAS RIDING ON THE ENGINE, WERE KILLED AND GEORGE HUNTER, BAGGAGEMAN, INJURED.

September 29, 1890.

The facts and circumstances attending the above accident, as developed by a personal inspection by one of the Commissioners soon after the accident and from information given by Superintendent Hammond and Chief Engineer Swift, were as follows:

Passenger train No. 27, north-bound, collided with an extra freight train south-bound about one-half mile north of Howard's siding, about 5.30 A. M., September 5, 1890, killing Engineer Thomas Murray, Fireman James Starr and Alpheus G. Hiffin, who was riding on the engine, and injuring George Hunter, baggageman.

Both of these trains had orders to meet at the siding known as Howard's switch, about six miles north of Port Henry. The engineer and conductor of passenger train No. 27 failed to obey the order, through carelessness, and ran by Howard's switch a full half mile or more, where No. 27 collided with the south-bound extra freight on a curve and in a cut.

The dispatcher's order to meet at Howard's switch was found in the pocket of the dead engineer; a copy was also in the possession of the conductor.

The time of the accident was after daylight in the morning.

Mr. Hiffin, who was permitted to ride on the engine in violation of the company's orders, was, it is understood, a friend of Engineer Murray and was going over the road with him.

The engineer has paid the penalty for negligence with his life and the conductor has been suspended.

It is evident that the engineer entirely forgot his orders. To prevent such forgetfulness a rule was adopted by the general time convention, being rule No. 516, to the effect that "Enginemen will place their orders in the clip before them until executed."

## RECOMMENDATIONS.

The Board recommends that rule No. 516 of the general time convention, *i. e.*, "Enginemen will place their orders in the clip before them until executed," be enforced by all railroads in the State.

By the Board.

## XII.

IN THE MATTER OF A HEAD-ON COLLISION ONE MILE WEST OF FISHER'S STATION ON THE AUBURN BRANCH OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD ON AUGUST 11, 1890, BY WHICH I. DANCEY, G. A. LIGHTHART AND F. W. HARRIS WERE KILLED, AND A. ADDISON AND GEORGE HORSELY SEVERELY INJURED.

September 29, 1890.

From testimony taken by a Commissioner and from an examination of the order book of the railroad company submitted and identified as in use at the date of this accident, the following facts and circumstances were obtained:

It appears that at 12.18 P. M., August 11th, train No. 42, an east-bound freight, at the yard at East Rochester, received the following order:

"ROCHESTER, August 11, 1890.

"C. & E. 42, East Rochester :

"13. You may have until 12.20 to make Brighton ahead of 6 and W. S. 2. Do not pass Pittsford without orders.

12. G. H. B.  
"Ed."  
ADDISON & DANCEY."

"12.18 P. M.

"B. O. K.

At 12.08 P. M. No. 330, an extra west-bound freight train, received at Fisher's the following order:

"ROCHESTER, August 11, 1890.

"C. & E. 330, extra, Fisher's :

"13, Run to Pittsford regardless of 42.

"12. G. H. B.  
"Ed."  
BATES & PALMER."

"12.08 P. M. B. O. K.

This action, it will be seen, made a positive meeting point at Pittsford for these trains.

When No. 42 arrived at Pittsford the following order was received:

"ROCHESTER, August 11, 1890.

"C. & E. 42, Pittsford :

"13. Do not pass Victor until engine 438 arrives.

"12. G. H. B.  
"Ed."  
ADDISON & DANCEY."

"12.30 P. M. Y. O. K.

On receipt of this order (the only order received after leaving East Rochester) No. 42 proceeded on its way eastward to meet No. 438 at Victor, a station about three miles east of Fisher's.

In the meantime extra No. 330, on its "regardless" order, passed Fisher's, about one mile westward, where it met No. 42 at a point known as Railroad Mills, resulting in the death of three persons and injury to two others, and the destruction of a large amount of property.

No. 330 was an extra train; No. 42 was a regular train with right of way, and was tied up at Pittsford for orders for the purpose of making a meeting point between engines 330 and 438.

To the fact that the assistant dispatcher, E. G. Kirke, forgot the order given to No. 330 at Fisher's must be attributed the cause of this collision.

The dispatcher testified that he discovered his error a few moments after the fatal order was given, and in time to have prevented the accident, but the wires acted badly until it was too late.

E. G. Kirke, the assistant dispatcher, has been a telegraph operator for ten years, and for five years past has been assistant dispatcher at this point. His superior officers state that he has always given the best satisfaction in the discharge of his duties, and prior to this time had never made a mistake.

The position of a train dispatcher is at the best a perplexing one, and particularly so at this point where there are so many single track wires and train orders given. It is of the utmost importance that the rules of the company should be strictly adhered to, which was not the fact in this case.

It is apparent that the assistant train dispatcher, E. G. Kirke, on this occasion violated the general rules of the company which provide that "When trains running in opposite directions on single track are to be moved by special order, the train having the right of road must first receive the order and the O. K. given before the order is issued to move the opposing train."

Had Kirke observed this order he would not have ordered No. 330 to Pittsford until he had notified No. 42 of the fact and received an acknowledgment of the engineer and conductor of that train. Even had Kirke forgotten this order and subsequently ordered No. 42 to run to Victor, the engineman and conductor would not have done so until they had inquired what became of No. 330.

#### CONCLUSIONS AND RECOMMENDATIONS.

*First.* The Board finds that E. G. Kirke, assistant train dispatcher was responsible for this accident.

*Second.* It recommends that the rules of the road with regard to moving trains in opposite directions, hereinbefore quoted, be strenuously enforced by the company.

By the Board.



# ACCIDENT INQUIRIES.

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## ADIRONDACK.

November 22, 1889 — Alonzo C. Williams while attempting to cross the track at Church street, Saratoga, was struck and killed. The Board upon inquiry learned that the crossing was not protected, and that the view was somewhat obstructed by buildings upon the corner of the street.

## BUFFALO, ROCHESTER AND PITTSBURG.

February 23, 1890 — While crossing the track on a highway one mile west of Colden, J. B. Olcott, was struck and instantly killed by the engine of train No. 12. In answer to a communication from the Board the superintendent of the road said that the crossing where the accident occurred was not protected, but the view was entirely unobstructed.

## DELAWARE AND HUDSON CANAL COMPANY.

October 23, 1889 — Dan Monahan and Harris Hubbell while driving over the tracks at Bridge street crossing, Glens Falls, were struck and run over by train No. 73. Hubbell was only slightly injured, while Monahan died from his injuries two days after the accident. Inquiry elicited the fact that the crossing was not protected, while the view in both directions for over one-half mile was perfectly unobstructed.

October 24, 1889 — As train (No. 6) approached the second crossing north of Chazy junction, Father Thomas attempted to drive across the track; he was struck and injured. Inquiry shows that the crossing was unprotected, but the view to approaching party was clear in both directions.

November 9, 1889 — Louis Green, while crossing the track a little west of Oneonta, was struck and killed. In reply to a letter from the Board, the company stated that the crossing was unprotected but the view was free from obstruction.

March 25, 1890 — William Bears, a passenger on train No. 4, was slightly injured in a rear collision at Howe's Cave, on April 1, 1890. The Board wrote asking for the circumstances of accident in greater detail, also asking who the company held responsible, and what discipline had been administered. In reply, the following letter was received:

ALBANY, N. Y., April 5, 1890.

WM. C. HUDSON, *Secretary, etc.:*

DEAR SIR. — Replying to your favor of 1st inst., regarding accident at Howe's Cave 25th ult. Freight train broke in two, short distance east of Cobleskill; coupled up; being nearly in train 4's time, left a flag without positive orders as to what they were going to do. Train 4 was stopped and

notified to look out for freight; after running about four miles found the freight on main track just west of Howe's Cave standing still. Conductor of freight train was discharged for not sending out a second flag.

Yours truly,

C. D. HAMMOND,  
*Superintendent.*

January 25, 1890 — At one-half mile west of Colliers, James Quackenbush was injured while attempting to drive across the tracks. The Board made inquiry as to whether the crossing was protected or not. In reply, Superintendent C. D. Hammond said that there was neither gates or flagmen at the crossing, but the view was unobstructed in every direction for some distance.

January 29, 1890 — William Raff, while driving team across the track near the Edison works, at Schenectady, was struck and slightly injured by an extra switching train. Inquiry shows that the crossing was not protected, and that the view of trains approaching from the east is somewhat obstructed by the embankment of the New York Central and Hudson River railroad.

January 29, 1890 — Peter Godette while climbing up side ladder of car at Plattsburgh was struck by a rigging, used in unloading coal, and injured.

On February 24, 1880, the Board wrote as follows :

ALBANY, N. Y., February 24, 1890.

C. D. HAMMOND, Esq., *Superintendent New York and Canada Railroad:*

SIR.—Your accident report, dated February the 10th, giving account of an accident to Peter Godette, a brakeman, January 29th is received. Therein it is stated "Godette attempted to climb to the top of a car by means of an outside ladder and came in contact with a rigging used in unloading coal by coal dealers. He was injured about the shoulders."

The Board desires to know: First, what is the standard of the Delaware and Hudson Canal Company with regard to the place for the ladders to box freight cars? Second, has any standard been recommended or adopted by the Master Car Builders' Association? Third, if the standard of the company be to have the ladders upon the ends of the cars the Board is of the opinion that there should be an order prohibiting cars being drawn upon the tracks of the company unless the ladders be thus at the ends rather than on the sides.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

The company in reply wrote as follows :

ALBANY, N. Y., March 11, 1890.

WM. C. HUDSON, *Secretary, etc.:*

DEAR SIR.—Replying to yours of February 24th regarding injury to Peter Godette at Plattsburgh, January 29th. The rule of our company places the ladders on the end of all freight cars, indeed we have no cars with ladders in any other position. Car in question belonged to the Canada Atlantic railway. I have made inquiry but am unable to learn that any action was ever taken by the Master Car Builders' convention specifying the particular location of the ladders; and indeed if such action had been taken I question our right, under the rules governing the interchange of cars, to decline to receive a car from a connecting road on account of such location of ladder.

Yours truly,

C. D. HAMMOND,  
*Superintendent.*

The Board in reply said:

ALBANY, March 17, 1890.

C. D. HAMMOND, Esq., *Superintendent Northern Railroad Department, Delaware and Hudson Canal Company:*

SIR.—Your communication of the 11th inst., in reference to the position of ladders upon box cars, is received. You say: "I have made inquiry, but am unable to learn that any action was ever taken by the Master Car Builders' convention specifying any particular location of the ladder, and indeed, if such action had been taken, I question our right, under the rules governing the interchange of cars, to decline to receive a car from a connecting road on account of such location of ladder." The Board is of the opinion that whatever the rules governing the interchange of cars may be, it is wrong to have cars run upon the tracks of railroads within this State with the ladders upon the sides. Accidents are constantly occurring from this cause resulting in death or severe injury to brakemen. Unless all the structures upon your tracks are removed to a distance, making it impossible for brakemen to be struck, the railroad company would clearly be liable for the death or injury of a trainman under such circumstances. The New York Central Company informed the Board that orders have been given to their operating department that when such cars are received and when it is found possible to transfer the freight into their own cars, with ladders on the end, to do so. The Board recommends that the same action be taken by the Delaware and Hudson Canal Company.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

August 30, 1890—William Floody, an employee, was struck and injured by an overhead bridge at Lumber street, Albany. Superintendent Hammond, in reply to a letter of inquiry from the Board, said that the bridge was properly equipped with warning signals, and that Mr. Floody met with the accident through carelessness.

#### DELAWARE, LACKAWANNA AND WESTERN.

December 14, 1889—Lucien S. Martin was struck and killed while on track at Alden. Inquiry elicited the fact that Martin was a trespasser, walking on track at least half a mile from public crossing.

#### FITCHBURG.

April 14, 1890—Engineer C. Pillings and Fireman O. Rohrback were injured in a collision at Rotterdam Junction. The following communication was received, in reply to a letter of inquiry from the Board.

TROY, N. Y., April 30, 1890.

*Hon. Board of Railroad Commissioners:*

DEAR SIRS.—General rule 117c reads as follows:

"Cars must not be left on side tracks without the brakes being applied to prevent them from running or being blown on to main tracks, or down grades, or off the end of tracks; and where safety blocks and switches are provided, these must be put in position and locked. Brakemen will be expected to attend to this, and conductors must see that they do so.

"This rule does not relieve station agents of their duty."

The matter was investigated to ascertain who was responsible for the violation of this rule. There were two sets of men who might possibly be responsible, viz., the yard men and a road crew. The statements were conflicting and it was and is difficult for me to locate the responsibility,

but the preponderance of evidence seemed to fix it upon road conductor P. J. Fitzpatrick and his rear brakeman H. E. Barbolt; they were accordingly suspended. As there was room for some doubt about their guilt, however, I did not think it right to dismiss them entirely.

Yours truly,

J. CRANDELL,  
*Superintendent.*

July 10, 1890 — At a crossing two miles north of Owego, the following people were killed while attempting to cross the track: Mrs. A. P. Cleveland, Mrs. James Shay, Mrs. Avery Whitmarsh, Mrs. Thomas Beaghan and Mrs. Harvey Van Duzen. Inquiry elicited the fact that the crossing was unprotected, but the view was perfectly clear in both directions. The horse was beyond control and running away.

#### LONG ISLAND.

October 25, 1889 — As train No. 23 was crossing English street a horse driven by Frank Markert came galloping toward it; they were struck and both man and horse killed. A letter from the Board developed the three following facts: First. The crossing was not protected by either gates or flagman. Second. The view is perfectly clear and unobstructed for a distance of half a mile in either direction. Third. The horse driven by Mr. Markert ran into the fourth car from the engine.

#### NEW YORK CENTRAL AND HUDSON RIVER.

October 26, 1889 — A freight train derailment occurred at Spuyten Duyvil junction. In regard to it the Board sent the following letter:

ALBANY, N. Y., October 29, 1889.

J. M. TOUCEY, Esq., *General Superintendent New York Central and Hudson River railroad:*

SIR. — Has any examination been made of the trucks of the freight car that took the wrong side of the frog on the afternoon of October the 26th at the junction near Spuyten Duyvil, resulting in a derailment and a delay of all trains for some four hours. It is a matter of considerable interest to know definitely what led to this accident. The Board presumes that it was in consequence of the truck being out of gauge, or a loose wheel. Will you please inform it as soon as you have made an examination what the trouble was?

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

The following letter was received in reply:

NEW YORK, October 31, 1889.

*Honorable Board of Railroad Commissioners, Albany, N. Y.:*

GENTLEMEN. — Answering your communication of October 29th, will say the cause of the derailment on October 26th, at Spuyten Duyvil junction, proved to be a bent axle upon Philadelphia and Reading car No. 2226.

Yours respectfully,

JOHN M. TOUCEY.

November 4, 1889 — M. Somaska was injured while attempting to cross track in front of train No. 22 at Buffalo. Inquiry shows that Somaska was injured while walking on track; he stepped directly in front of engine as it was approaching.

November 26, 1889 — At Buffalo Chas. Young was instantly killed while driving across the track. The following is a reply to a communication from the Board:

NEW YORK, December 9, 1889.

*To the Honorable the Board of Railroad Commissioners, Albany, N. Y.:*

GENTLEMEN.—In reply to your communication of December 3d, asking for information in regard to the accident at East Delaware avenue crossing on Belt line, Buffalo, I beg to inform you that we have neither gates nor flagman at this crossing, but an automatic bell is operated there, which was ringing to warn persons approaching at the time Mr. Young was struck. View was unobstructed, and at a distance of 350 feet from the track on Delaware avenue an approaching train can be seen for a distance of 1,000 feet.

Respectfully yours,

JOHN M. TOUCEY.

December 17, 1889 — Thomas Bray, while crossing the track at Fillmore avenue, Buffalo, was struck by engine No. 318 and killed. Inquiry developed the fact that the crossing is protected both night and day by a flagman, and the view is unobstructed for 600 feet in each direction.

February 4, 1890 — John J. Fitzgerald, while climbing up side ladder of car to set brakes at Yonkers, was struck and injured by a car on siding. The Board investigated the accident, as follows:

February 17, 1890.

JOHN M. TOUCEY, Esq., *General Manager, New York Central and Hudson River Railroad:*

SIR.—The accident No. 232, which took place February 4, 1890, south of passenger station at Yonkers, by which John J. Fitzgerald was badly cut about the head, is reported as follows: "Engineer blew brakes and in climbing up side ladder to set same, he was struck by cars on siding and knocked off." The Board desires to know what the standard place for ladders on box freight now is. If the ladders are on the sides of the car there certainly should be room enough for a man to climb up the ladder without being struck by any object in proximity to the track, water crane, telegraph pole, switch stand, car or anything else. Inasmuch, however, as it is a notorious fact that all along the line of the New York Central road, and probably on many other roads in the State, these various objects are in too close proximity to the track to admit of a man climbing up a ladder from the sides. Would it not be better to have the ladders at the ends of the cars than on the sides?

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

On February 19, 1890, the letter following was received in reply:

NEW YORK, February 19, 1890.

*Honorable Board of Railroad Commissioners, Albany, N. Y.:*

GENTLEMEN.—Replying to your letter of the 17th inst., regarding injuries to one John J. Fitzgerald, a brakeman, on February 4, 1890, I beg to inform you that the standard New York Central and Hudson River freight car requires the ladders to be placed on the ends of the car. The car from which Fitzgerald was knocked was a Toledo, Peoria and Western car No. 694. Trusting that I have sufficiently answered your inquiry, I am,

Yours truly,

JOHN M. TOUCEY.

On February 24, 1890, the Board wrote a second letter, which was as follows:

February 24, 1890.

JOHN M. TOUCEY, Esq., *General Manager, New York Central and Hudson River Railroad:*

SIR.—Your letter of the 19th inst., regarding injuries to one John J. Fitzgerald, a brakeman, on February 4, 1890, is received. The Board notes your statement that the standard New York Central and Hudson River railroad freight car requires the ladders to be placed on the ends of the car. What is the standard of the Master Car Builders' Association? It would seem that a rule should be adopted by the New York Central and Hudson River railroad prohibiting box freight cars being hauled on the New York Central tracks unless the ladders are at the end thereof.

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

In reply the Board received a letter which read as follows:

NEW YORK, March 1, 1890.

*Honorable Board of Railroad Commissioners, Albany, N. Y.:*

GENTLEMEN.—In reply to yours of February 24th will say that the Master Car Builders' Association established no place upon which to fix the ladders. I think the only way in which they refer to ladders is about their safety; that is, the ladders must be secured by bolts instead of light screws. Of course box cars upon foreign roads, western roads in particular, do not meet with obstacles by placing ladders on the side, as we do east; that is, they have plenty of room. If we should establish a rule declining all freight cars with ladders placed upon the sides, we would undoubtedly delay at times important freight, but I have advised our operating department that, when such cars are received, and it is found possible to transfer the freight into our own cars with ladders at the end to do so.

Respectfully yours,

J. M. TOUCEY.

February 21, 1890 — John Lynch was instantly killed while attempting to drive across the track at Geddes. Inquiry elicited the fact that the crossing is only protected during the day. The accident occurred at 7.45 p. m.

April 19, 1890 — Chas. O'Neil was injured and Mary Mooney killed, while crossing the north-bound track at Ludlow, to take a south-bound train. In reply to a letter from the Board, asking if the station was not equipped with a distant signal, to prevent trains approaching when another train is receiving or discharging passengers, the following letter was received:

NEW YORK, May 6, 1890.

MR. WILLIAM C. HUDSON, *Secretary Board of Railroad Commissioners, Albany, N. Y.:*

DEAR SIR.—I have your favor of the 5th, and note contents, in regard to the Ludlow accident on April 19th.

Ludlow station is not equipped with distant signals operated from the tation. Even had the station been so equipped, I doubt whether it would have prevented the accident in question, as the train that caused the accident passed the station before the local train on the south-bound track, which the parties were about to take.

I beg to advise you that there are three tracks in front of Ludlow station, the middle track being used for freight trains, and which was free at the time of the accident. The view from the station is entirely unobstructed

in both directions, and there was no necessity whatever for the parties who were hurt to undertake to pass over in front of the train which struck them.

My belief is that had the man not been under the influence of liquor there would have been no accident.

Yours truly,

THEODORE VORHEES.

July 13, 1890 — Jarvis Kimball, while crossing the track at Murray, was struck and killed. Inquiry shows that the view of crossing was somewhat obstructed.

July 26, 1890 — At Spuyten Duyvil, train No. 224 struck and killed Mrs. Burke, who was crossing the track. General Superintendent Voorhees, in answer to a communication from the Board, said that the crossing was protected by both gates and a flagman.

July 28, 1890 — Robert Dawson, while attempting to cross the track at Syracuse, was struck and injured. Inquiry elicited the fact that the crossing was unprotected, but the view was unobstructed in both directions.

August 21, 1890 — S. S. Parker, an employee, struck his head against overhead bridge, at East Albany, and was injured. Inquiry shows that the bridge was not protected with guards at the time of accident, but orders had been given to erect them at this point, and the work was being rapidly done.

#### NEW YORK, LAKE ERIE AND WESTERN.

October 29, 1889 — A collision occurred a little east of Otisville, which resulted in the loss of one life and injury to four others. A letter of inquiry brought forth the following statement:

#### *Accident one mile east of Otisville, October 29, 1889.*

Train extra west, engines 722 and 524, had stopped at Otisville to switch a car. The train was cut in two and the head part went ahead a short distance to switch this car, when the rear part of the train ran back and into the following freight train, extra 634, west, wrecking engine 634 and twenty-five empty cars. The rear part of the train that ran back consisted of thirty-five empty cars, with two men on, one of which, S. Sloat, flagman, appears to have been asleep in the caboose; the other man, L. Garrett, who also was in the caboose when the train started back, claims that he called to Sloat that the train had started to run back, but that he (Sloat) did not seem to have heard him; he then started to set brakes and had four set when the collision occurred. Conductor Dalron, who should have seen what brakes were applied, as soon as his train was stopped to switch this car, has been dismissed from the service.

The following employees received injuries:

S. Sloat, flagman, age 28, residence Port Jervis; killed.

L. Garrett, brakeman, age 21, residence Port Jervis; bruised slightly about body.

John D. Fosdick, engineer, age 32, residence Port Jervis, was scalded about the hands and bruised and burned about body.

J. C. Briery, fireman, age 22, residence Port Jervis, received a scalp wound and was bruised about body.

John Briery, age 20, residence Port Jervis, a brother of the fireman and who was on the engine learning to be a fireman, received injuries from which he died.

Geo. W. Gardner, brakeman, age 26, residence Port Jervis, received compound fracture of bones of right leg and severe injury to right side and shoulder.

November 21, 1889—Fireman W. H. Coburn was killed in the derailment of freight train No. 94, at Dyke's switch, four and one-half miles east of Wellsville. November 26, 1889, the Board wrote to the road asking who, in its opinion, was in fault, and what, if any, discipline had been administered. In reply, General Superintendent W. J. Murphy said that he held Chester S. Halliday (fireman of pusher engine No. 217) responsible for not properly closing the switch, and had dismissed him from the service of the company.

November 29, 1889—Engine No. 630 and twenty-two cars of freight train left the track at a point one-quarter mile west of Howell's station. Charles I. Wright, a brakeman, was seriously injured. Derailment was caused by a broken wheel. Inquiry as to who manufactured the wheel and how long it had been in use, elicited the fact that the wheel was made by "McDougal." The company was unable to say how long it had been in use, as the accident occurred to a Grand Trunk car.

April 15, 1890—Twelve cars of extra east freight train were derailed at Dayton's Hill, and Brakeman John Dye was injured by jumping. Accident was caused by broken wheel. In response to an inquiry made by the Board, the company stated that the wheel referred to was under Chicago, Hamilton and Dayton car No. 14324; it was a cast-iron wheel made by the Indianapolis Car Manufacturing Company in July, 1887; it was numbered 31743, and had been in continuous service for thirty-three months.

June 9, 1890—The engineer of train No. 18 found switch wrong at Cooper's gravel pit west of Cooper's; he put on air brakes and reversed the engine, but the train could not be stopped in time to avoid striking the engine of work train, which was standing on the gravel pit. The switch was left wrong by the conductor of the latter train, S. J. Stark, who was immediately dismissed from the service. The following persons were injured: Passengers—Judson C. Miller, Dr. George Luzier, James F. Kelner, Mary Considine, George F. Manning. Employees—Julius Masters and Lee Cook. The Board, in a letter of inquiry, said that the frequency of these accidents of late, due to the largely increased travel on all the railroads of the State, suggests to the Board the propriety of recommending legislation that all switches should be interlocked with distance signals, and requested that road should give them an expression of its opinion on the subject. In reply, the company stated that it had commenced some years ago to interlock all junctions and railroad crossings in the State of New York, and followed that up with distance signals at all important switches, and are endeavoring, as fast as practicable, to equip all head-on switches with distant signals with a lock that prevents the switch being thrown until the danger signal is displayed. The company does not think legislation on the subject necessary, as all railroads in the State, with any considerable amount of traffic, are gradually adopting the above practice.

#### NEW YORK, NEW HAVEN AND HARTFORD.

December 9, 1889—E. B. Slaymaker, an employee, was reported to have been hit by an overhead bridge at Port Chester, and injured. A reply to a letter from the Board shows that the man was not struck



by the bridge, as supposed at first, but fell in a fit from the top of the car and injured.

July 12, 1890 — At a point just west of Larchmont, Charles Reed, a brakeman, was struck by an overhead bridge and killed. The company, in reply to a letter from the Board, said that the bridge was not equipped with warning signals, because it was a very high one. The Board then wrote recommending the construction of signals at this point immediately, and received in reply a letter, saying that all bridges in the State would be so equipped as soon as possible.

#### NORTHERN CENTRAL.

November 16, 1889 — A derailment occurred at or near Canandaigua, which resulted in injuring Brakeman Harvey A. Torrey.

November 16, 1889 — Herbert M. Shepherd was instantly killed in a collision at Stanley. On December 23, 1889, the following letter of inquiry was sent:

ALBANY, N. Y., December 23, 1889.

SPENCER, MEADE, Esq., *Superintendent Northern Central Railroad, Elmira, N. Y.*:

SIR.—I have been instructed to ask you what caused the derailment at Canandaigua on November 16, 1889. The Board further desires to know (in regard to the Stanley collision of same date) who, in opinion of company was responsible, and what discipline, if any, had been administered? Why were these accidents not reported sooner?

By the Board.

WILLIAM C. HUDSON,  
*Secretary.*

On December 26, 1889, the reply came, which read as follows:

ELMIRA, N. Y., December 26, 1889.

MR. WILLIAM C. HUDSON, *Secretary Board of Railroad Commissioners, Albany, N. Y.*:

DEAR SIR.—In reply to your favor of 23d inst.: The cause of the derailment at Canandaigua on November 16th, is not known positively. The track on which the derailment occurred was a branch to Canandaigua lake, which is operated as a part of Canandaigua yard, and was in good condition for the speed at which the train was running, viz.: four miles per hour. The ties were sound, and while the rails were old iron rails, they were not in unsafe condition. On the derailment of the car the trucks slued around breaking them more or less, and damaging the track, and it was impossible to say positively whether derailment was caused by a defect in the truck, or by the track spreading, but our opinion is it was due to a defective truck.

As regards the responsibility for the collision at Stanley, on the evening of November 16th: We consider Conductor Mason and Flagman Shepard, who was killed, jointly responsible—Conductor Mason for allowing his train to back down a siding which was used for storing cars, without taking sufficient precaution to avoid collision—Flagman Shepard for not being on the lookout, and giving the signal at the proper time to the engine man, which we are satisfied could have averted the collision.

Conductor Mason has been discharged.

The delay to report of accident at Canandaigua was due to the paper being referred to different subordinates, in order to determine definitely if possible, the cause of the derailment. Report of the accident at Stanley was delayed awaiting the evidence taken and verdict of the coroner's jury, which was not completed until November 25th. The verdict of the coroner's jury was that the Northern Central Railway were responsible for Shepard's death, through the neglect of their employees.

Yours truly,

SPENCER MEADE,  
*Superintendent*

March 8, 1890 — Wm. L. Barton, an employee, while climbing up side ladder on a car at Millport, fell to the ground and was slightly injured. The Board wrote asking if the man was struck by any object or not, and stating that in its opinion ladders upon the sides of box cars are dangerous, and recommended that they be placed upon the ends of cars and that no car be received from a connecting railroad unless such ladder be on the end. In reply the company said that Barton was not struck by any object, but fell off ladder to the ground, spraining his hip. The company also informed the Board, in regard to the ladder, that it was its practice to construct their cars according to the Board's recommendation.

April 13, 1890 — Chas. W. Jarvis, a telegraph operator, while riding on top of car on his way to work, was struck by overhead bridge at Horseheads and slightly injured. Inquiry shows that the bridge was properly protected with warning signals.

#### ROME, WATERTOWN AND OGDENSBURGH.

October 19, 1889 — Engine No. 59 struck and killed Maggie O'Neal at Erie street crossing, Suspension Bridge. In reply to a communication from the Board, the New York Central and Hudson River Railroad Company, on whose crossing the accident occurred, said that a flagman had been stationed at Erie street.

October 23, 1889 — John E. Coe was instantly killed while attempting to drive across the track at East Seneca street, Oswego. The following letter was received in reply to an inquiry from the Board:

NEW YORK, 12th November, 1889.

*Hon. Board of Railroad Commissioners:*

GENTLEMEN.—I am in receipt of yours of 8th inst. with reference to the accident at Oswego, 23d October, at Seneca street crossing.

Had this company's rules been observed I do not think this accident would have occurred.

We have now under consideration with the city authorities of Oswego the question of providing an overhead bridge at this street crossing, which if carried out will effectually obviate danger at that point. A flagman there would not be of effectual service.

Yours faithfully,

J. BURTON,  
General Manager.

March 20, 1890 — J. A. Hill, while attending to his duty, was knocked or fell from top of car at Lewiston Junction and killed. In answer to a letter from the Board, General Manager E. S. Bowen said that from the evidence before the coroner it was impossible to say whether Hill fell or was knocked off.

July 11, 1890 — Everett Rogers was thrown from his wagon and injured at Chaumont. The colt he was driving became frightened and could not be controlled. Inquiry shows that the crossing was not protected by either gates or flagmen.

September 4, 1890 — Nellie Robinson (passenger) and Peter Crahan (employee) were injured in a collision between train No. 32 and a switch engine at Olean. General Superintendent R. Bell, in reply to a communication from the Board said that the men on switch engine were responsible, and have been discharged for going out on main track without first assuring themselves that passenger train had arrived.

## WEST SHORE.

October 30, 1889 — William L'Estrange was struck by signal post at Cornwall and badly injured. The company, in reply to a letter from the Board, said that L'Estrange was himself to blame for accident, as he had no business to be riding on step of car, but in order to prevent any similar occurrence in the future they had done as the Board suggested and had issued an order to have the signal post set a greater distance from the track.

January 9, 1890 — Engine blew out its crown sheet of fire box at Kingston and injured the following employees: Oscar M. Gray, W. C. Mansfield and George T. Smith. Inquiry showed that the engineer was at fault, for allowing water in boiler to get too low, and the company promptly discharged him.

February 2, 1890 — Engine No. 45 ran into rear of engine No. 48 at a point one-quarter mile east of Red Creek, injuring John McCarthy and Patrick T. Grace, both employees.

February 6, 1890 — Two miles east of Palmyra a collision occurred between engine No. 63 and caboose of fourth 74. Charles Hogen, George W. Pace and Charles S. Wilson (employees), all jumped to the ground and were injured. In regard to the above collision the Board, on March 7, 1890, wrote to General Manager J. D. Layng asking for circumstances in detail. The following letter was received in reply:

NEW YORK, March 21, 1890.

*Hon. Board of Railroad Commissioners :*

GENTLEMEN.—Replying to yours of the 7th inst. : With regard to the accident at Red Creek on February 2d would state that Mr. Young, the engineer of engine 45, was responsible and he has been discharged from the service.

The responsibility for the accident near Palmyra February 6th lies with the engineer, Charles Hager, and the conductor, Edward Tower. Hager is still in the hospital, and will probably be incapacitated for service as locomotive engineer in the future. The conductor has been reduced to the ranks and is now at work as a yard man.

Yours truly,

J. D. LAYNG,  
*General Manager.*

February 16, 1890 — At Tonawanda, Mr. and Mrs. Kline drove on track at crossing in front of approaching train and were struck by passenger train No. 3, receiving severe injuries. Inquiry elicited the fact that the crossing was not protected.

April 6, 1890 — Train ran into landslide at Diefendorf Hill, two and a half miles east of St. Johnsville, injuring the engineer, W. S. Potter. In reply to a letter of inquiry from the Board as to whether the company had taken any means to guard against a recurrence of a landslide at this point, the following letter was received:

NEW YORK, April 30, 1890.

*Hon. Board of Railroad Commissioners :*

GENTLEMEN.—Answering yours of the 28th, with regard to slide at Diefendorf Hill, would state for the information of the Board that we now have a large force of men at work clearing away the slide. When the work is finished, unless every possibility of a recurrence is removed, we will, of course, place a watchman at that point, but at the present writing the chances are that the possibility of a recurrence will be removed by the work now being done.

It may not be out of place to state for the further information of the Board that there never was any sign of danger at this point previous to the slide, or a watchman would have been placed there.

Yours truly,

J. D. LAYNG,  
*General Manager.*

August 13, 1890 — At Jordan station two employees were injured in a collision, caused by engine No. 58 of train first 74 running into caboose No. 23 of train third 72. The company, in reply to an inquiry, said that accident was caused by the negligence of the engineer of No. 58 and flagman of train third 72. The flagman, who was more at fault than the engineer, has been dismissed, and the engineer suspended indefinitely.

# LENGTH OF STEAM RAILROADS

IN OPERATION JUNE 30, 1890:

[Small capitals indicate lessee; indentations indicate leased or operated lines.]

Name of Company.	Miles in N. Y. State.
Addison and Pennsylvania.....	10.51
Bath and Hammondsport.....	9.33
Boston and Albany.....	56.63
BRADFORD, ELDRED AND CUBA.....	4.31
Bradford, Richburgh and Cuba.....	3.62
Wellsville, Bolivar and Eldred.....	20.62
Brooklyn, Bath and West End.....	6.64
Brooklyn and Brighton Beach.....	7.50
Brooklyn and Rockaway Beach.....	3.50
Buffalo Creek.....	4.26
Buffalo Creek Transfer.....	1.10
BUFFALO, ROCHESTER AND PITTSBURG.....	166.18
Lincoln Park and Charlotte.....	10.89
Perry.....	1.03
Carthage and Adirondack.....	43.25
CATSKILL MOUNTAIN.....	15.73
Cairo.....	3.77
CENTRAL NEW ENGLAND AND WESTERN.....	53.04
Hartford and Connecticut Western.....	43.75
CENTRAL VERMONT:	
Addison.....	.75
Ogdensburgh and Lake Champlain.....	118.00
Saratoga and St. Lawrence.....	8.50
CHATEAUGAY.....	18.01
Chateaugay Railway.....	38.89
Plattsburgh and Dannemora.....	15.92
Chautauqua Lake.....	23.85
CLOVE BRANCH.....	4.25
New York, Boston and Montreal (trustee).....	4.01
COOPERSTOWN AND CHARLOTTE VALLEY.....	5.00
Cooperstown and Susquehanna Valley.....	19.52
Crown Point Iron Company.....	21.84
Connecting Terminal.....	1.00
DELAWARE AND HUDSON CANAL COMPANY:	
Adirondack.....	56.89
Albany and Susquehanna.....	142.59
Cherry Valley, Sharon and Albany.....	21.04
Lackawanna and Susquehanna (owned).....	17.65
New York and Canada and leased lines.....	149.94

Name of Company.	Miles in N. Y. State.
<b>DELAWARE AND HUDSON CANAL COMPANY — (Continued):</b>	
Rensselaer and Saratoga and leased lines .....	158.21
Schenectady and Duaneburgh .....	18.79
Schenectady and Mechanicville (owned) .....	9.93
<b>DELAWARE, LACKAWANNA AND WESTERN:</b>	
Cayuga and Susquehanna Valley .....	34.41
Greene .....	8.10
New York, Lackawanna and Western .....	207.89
Oswego and Syracuse .....	34.98
Syracuse, Binghamton and New York .....	81.00
Utica, Chenango and Susquehanna Valley .....	97.41
Valley .....	11.64
<b>ELMIRA, CORTLAND AND NORTHERN</b> .....	118.70
Canastota and Northern .....	20.73
<b>FALL BROOK COAL COMPANY:</b>	
Corning, Cowanesque and Antrim .....	15.64
Penn Yan and New York .....	6.43
Syracuse, Geneva and Corning .....	57.75
<b>FITCHBURG</b> .....	114.99
Troy and Bennington .....	5.04
Fonda, Johnstown and Gloversville .....	26.17
<b>GRAND TRUNK</b> .....	1.21
International Bridge Company .....	.66
United States and Canada .....	22.18
Greenwich and Johnsonville .....	14.65
Herkimer, Newport and Poland .....	16.73
Island .....	.71
Kaaterskill .....	7.50
Kanona and Prattsburgh .....	11.47
Keeseville, Ausable Chasm and Lake Champlain .....	5.60
Kinderhook and Hudson .....	16.30
<b>LACKAWANNA AND SOUTH-WESTERN</b> .....	79.85
Rochester, Hornellsville and Lackawanna .....	10.83
Lake Champlain and Moriah .....	7.66
Lake Shore and Michigan Southern .....	71.00
Lebanon Springs .....	52.10
<b>LEHIGH AND HUDSON RIVER</b> .....	14.50
Orange County .....	10.70
<b>LEHIGH VALLEY</b> .....	9.41
Auburn and Ithaca Branch .....	22.60
Cayuga Branch .....	6.20
Geneva, Ithaca and Sayre .....	113.55
Hayt's Corners, Ovid and Willard .....	3.83
Southern Central .....	114.00
Waverly and State Line .....	.40
<b>LONG ISLAND</b> .....	287.08
Brooklyn and Jamaica .....	9.58
New York, Brooklyn and Manhattan Beach .....	20.14
New York and Rockaway .....	8.91
Smithtown and Port Jefferson .....	18.97
Stewart .....	16.27

Name of Company.	Miles in N. Y. State.
Marine .....	.33
Middleburgh and Schoharie .....	5.75
Mt. McGregor .....	10.50
Newburgh, Dutchess and Connecticut .....	58.84
NEW JERSEY AND NEW YORK .....	17.93
COMMON New Jersey and New York Extension .....	2.37
New York Central and Fort Orange .....	.60
NEW YORK CENTRAL AND HUDSON RIVER .....	731.87
Albany Branch .....	11.04
Athens' Branch .....	6.15
Buffalo Creek .....	1.29
Buffalo and Erie Basin .....	.25
Fuller's Branch .....	5.07
Lake Mahopac .....	7.09
New York and Harlem .....	126.96
New York and Mahopac .....	7.09
Niagara Bridge and Canandaigua .....	87.58
Port Morris .....	1.85
Spuyten Duyvil and Port Morris .....	6.04
Troy and Greenbush .....	6.00
West Shore .....	485.10
New York, Chicago and St. Louis .....	68.07
New York and Northern .....	55.91
NEW YORK, LAKE ERIE AND WESTERN .....	504.46
Avon, Geneseo and Mt. Morris .....	17.70
Buffalo, Bradford and Pittsburg .....	7.99
Buffalo, New York and Erie .....	139.93
Buffalo and South-western .....	66.36
Conesus Lake .....	1.63
Elmira and State Line .....	6.50
Erie and Genesee Valley .....	12.25
Goshen and Deckertown .....	11.65
Lockport and Buffalo .....	15.93
Middletown and Crawford .....	10.22
Montgomery and Erie .....	5.14
Newburgh and New York .....	12.59
New York, Pennsylvania and Ohio .....	49.24
Northern Railroad of New Jersey .....	5.81
Rochester and Genesee Valley .....	18.63
Suspension Bridge and Erie Junction .....	23.87
NEW YORK, NEW HAVEN AND HARTFORD .....	14.04
Harlem River and Port Chester .....	11.50
NEW YORK, ONTARIO AND WESTERN .....	320.17
Hancock and Pennsylvania .....	2.0 <sup>a</sup>
Rome and Clinton .....	12.7
Utica, Clinton and Binghamton .....	31.2
Wharton Valley .....	6.84
New York and Massachusetts .....	34.90
New York and New England .....	30.71
New York and Rockaway Beach .....	10.71
New York and Sea Beach .....	6.00

Name of Company.	Miles in N. Y. State.
<b>NEW YORK, SUSQUEHANNA AND WESTERN:</b>	
Middletown, Unionville and Water Gap .....	13.90
<b>NORTHERN ADIRONDACK</b> .....	11.93
Northern Adirondack Extension .....	42.00
<b>NORTHERN CENTRAL :</b>	
Elmira and Lake Ontario .....	99.61
Elmira and Williamsport .....	6.50
Pennsylvania, Poughkeepsie and Boston .....	4.00
Port Jervis, Monticello and New York .....	41.05
<b>PROSPECT PARK AND CONEY ISLAND</b> .....	5.87
New York and Coney Island .....	2.41
Prospect Park and South Brooklyn .....	1.15
<b>Rochester and Glen Haven</b> .....	3.44
<b>Rochester and Lake Ontario</b> .....	6.04
<b>ROME, WATERTOWN AND OGDENSBURGH</b> .....	427.69
Carthage, Watertown and Sacketts Harbor .....	29.59
Oswego and Rome .....	28.49
Rome, Watertown and Ogdensburgh Terminal .....	8.37
Utica and Black River .....	149.81
<b>Schoharie Valley</b> .....	4.38
<b>Seneca Falls and Cayuga Lake</b> .....	2.83
<b>Silver Lake</b> .....	6.86
<b>Skaneateles</b> .....	5.00
<b>Southfield Branch</b> .....	1.00
<b>STATEN ISLAND RAPID TRANSIT</b> .....	8.60
Staten Island .....	12.70
<b>Sterling Mountain</b> .....	7.60
<b>Stony Clove and Catskill Mountain</b> .....	14.30
<b>Syracuse and Baldwinsville</b> .....	6.00
<b>Tonawanda Valley and Cuba</b> .....	30.00
<b>Troy Union</b> .....	2.14
<b>ULSTER AND DELAWARE</b> .....	74.00
Hobart Branch .....	4.00
<b>Western New York and Pennsylvania</b> .....	325.16



# INSPECTIONS.

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The following reports are condensations made by the inspector from his field notes. The field notes themselves are filed in the office of the Board, and show in very much greater detail the condition of the structures and road-bed. [R. R. COMBS.]

## ADDISON AND PENNSYLVANIA RAILROAD.

(Three-foot gauge.)

On page 232, first volume of the Commissioners' report for 1888, will be found a report of the last inspection of this property. During the seasons of 1889 and '90 the road has suffered severely by freshets in the Canisteo and Tuscarora valleys. A through Howe truss of two spans over the latter creek was swept away this season, together with the embankments adjoining. A pile bridge of several twenty-foot spans is now being constructed nearly across the valley. The two spans of through Howe truss over the Canisteo creek were displaced about eighteen inches on the pile pier, but have been replaced. This bridge should be at once rebuilt, although but about eight years old. The lower chords have several badly decayed strands, and a number of angle-blocks are broken. There are very little signs of the pulling apart of strands in these chords, yet there are indications of the beginning of failure. It is suggested that for absolute safety the bridge be rebuilt.

Adjoining this bridge on the south are six bays of trestle bridge, about thirteen-foot clear spans. It is built of hemlock, is almost seven years old and shows decay at bottoms of bents, suggesting the necessity of renewal. Between the Tuscarora creek crossing and State Line are six separate trestle bridges of hemlock timber, from fifteen to thirty bays each and from twenty to fifty feet in extreme height. The bays are fourteen-foot clear span, and have single stringers of twelve by fourteen inches section, resting on corbels. The bents have twelve-by-twelve-inch members and rest on mud-sills. These trestles mostly cross ravines, in the beds of which water flows at times, and heavily during freshets, as the experience of the last two seasons shows. The material in bottom of ravines is of a loose earth, mixed with stone, showing ground made by previous washing of hillsides. The bottoms of these depressions were dug out deeply by the last freshet and bents were removed. The channel was depressed from six to ten feet under nearly all the trestles, and in repairing there does not appear to have been as thorough work as desirable. The foundations of the replaced bents are too unstable to withstand an ordinary freshet and bents stand on brinks of the depressed channels, the slopes of which are nearly perpendicular. It is suggested that more permanent work for the support of these exposed bents be provided. The tendency to creep up the heavy grade of the tops of bents is too apparent. Many of the highest bents are from eighteen to twenty and more inches out of perpendicular, the most where trestles are on curves. This defect should be remedied. Another and very serious defect is the decay of the hemlock timber at the intersection of the posts and braces with the sills. Nearly every post and brace, where not renewed, has its tenons entirely gone with decay, and the mortises in sills are affected in the same manner. A few sills have been renewed, and also a few caps, but the large majority of the timber is of the original structure and is more or less decayed. It is suggested that all the decayed timber in these trestles be speedily removed. A number of short openings, such as cattle-passes and waterways, built of hemlock, have been in part renewed. The freshets have dug out between the bents from two to three feet below the bottom

of sills, and there are no mud-sills extending under both bents. This defect is also suggestive of liability to fail should another freshet occur, or at the outgoing of frost in the spring. It is suggested that the foundations of these openings be repaired, or better, deeper bents be used, and a new foundation at a level with the present bed of channel between the bents. There is one new structure, a pile bridge of eight bays of fourteen feet spans, having four piles to each bent. The bents are oak piles and compound caps of yellow pine, six by twelve inches section. The stringers are two strands yellow pine, twelve by seven inches, breaking joints over caps. A substantial floor of ties and guard-rails are provided. This pile bridge takes the place of a trestle entirely destroyed. Excepting the bridges referred to the road is in very fair condition. Generally the life of sleepers is good and the track fairly adjusted. The fencing is well sustained and roadway clean. The iron rail is fast being replaced with steel. The iron is of thirty pounds section per yard, and the steel is forty, fifty-six and sixty-three pounds per yard.

At Addison there is a frame passenger depot and general offices; also a device for transferring bodies of standard-gauge cars to and from narrow-gauge trucks, thus enabling heavy-loaded standard cars to be transported over the narrow-gauge tracks. At Freeman's station there is a small frame passenger and freight depot combined. It has one good waiting-room, comfortably furnished. The serious damage done this road by the freshets of the last two seasons, unprecedented at least in many years, has delayed and hindered the work of renewal of the trestles and of much other work in the betterment of permanent way.

It was stated that no damage to person had resulted, but the entire time of those connected with the maintenance of way had been occupied in repairing damages sufficiently to keep the road in operation.

#### BATH AND HAMMONDSPORT RAILROAD.

Since the last inspection of this road, made in 1888, the gauge of three feet has been changed to the standard width of four feet eight and one-half inches. The entire line is laid with new steel rail of sixty-pounds per yard section, fastened at joints with angle-bars. Nearly all the sleepers were replaced with those of standard-gauge length, a few only of the short ties which were in a perfectly sound condition, being retained.

The superstructure is well tied with cedar sleepers on tangents, and oak on curves. The road-bed is well ballasted with gravel, is properly ditched and track adjustment is very good. The roadway is strongly inclosed throughout with wire and post and board fence, and is free from weeds, brush and old track debris. There are no truss bridges nor openings of greater width than about sixteen feet. There are nineteen minor openings, varying in width from four to sixteen feet, with one waterway of three spans of thirteen feet. Nearly all the masonry has been relaid in cement, and yellow pine track stringers of suitable size provided. A few openings have T rails for girders, and all have a strong floor of ties and guards or spacing ribbons well bolted to ties.

One abutment was washed out during a recent freshet, and preparations for rebuilding were noticed. One highway crossing sign appears omitted. Standard-gauge equipment has been provided, and while not of new construction, it is very bright, clean and comfortable, and has air brakes, Miller couplers and steam heating. At Bath the passenger depot of the Erie road is used.

At Hermitage is a frame depot and also one at Hammondsport. This latter station adjoins the steamboat landing, on which is a covered way, and by its side trains arrive and depart during the season of navigation. The depot proper has one small waiting-room which appears too contracted. The property, as a whole, is certainly in much better condition as a standard-gauge than when operated as a narrow-gauge road.

#### BOSTON AND ALBANY RAILROAD.

##### *Hudson and Chatham Branch.*

Commencing at Hudson, the branch to Chatham, as on the previous inspection, was first examined. The grade crossing of the freight tracks, which are much used, of the Boston and Albany road with the main tracks

of the New York Central and Hudson River road, remains unprovided with throw-off switches and distance signals. The suggestions made in last report that throw-off switches, properly interlocked with warning signals be placed at a proper distance from the crossing, are again respectfully repeated. The Central-Hudson is the junior road, and probably the burden of cost for the suggested safety appliance would be with them. The matter of allowing Central-Hudson trains to cross without stopping was referred to your Inspector and his report was, that for them to do so would undoubtedly be extremely burdensome, "but certainly they should stop, unless the best devices for protection against accident are provided." It was stated at time of present inspection that care was used to so leave switches as to turn any cars coming of themselves down the steep grade on the Boston and Albany tracks away from the crossing. Such may be the fact, but the suggestion of a safety device, as above, is intended to control all movements of trains over this grade crossing.

No special variation in the maintenance of this branch was observed. It was found in the same good condition before reported.

There are three truss bridges, of the Howe type, each of which is covered and the timber appears to be in good life. The minor openings are the same as at last report. Each was examined and generally found in good order. Some of the masonry substructures of these openings are not in as good condition as desirable, and a relaying in cement is suggested. A number of pit cattle-guards have been filled and slats substituted. The life of sleepers is quite strong, and track adjustment very workmanlike. Care is taken to keep the road-bed well drained and the roadway is very tidy. The brick passenger station at Upper Hudson has been thoroughly repaired. It is now a very clean and well-furnished depot. Claverack depot has also been repaired and the stations at Mellenville, Pulvers and Ghent, are in excellent order.

#### *Main Line.*

The inspection of the double-tracked main line began as before at State Line. The same excellent maintenance of the superstructure, road-bed, fences and depots, was observed. All openings of moment have iron superstructures, well floored and strongly supported by good masonry. Some of the minor openings have been rebuilt or renewed, but there yet remains a number of short spans of five feet that are not physically as strong as desirable. It is suggested that such of the cattle-guards and short-span waterways as are expected to remain openings in the road-bed be properly rebuilt and each supplied with a suitable floor. The outside rail on a number of curves in the east-bound track was noticed as too much worn. It is suggested that if not renewed it could be changed to the opposite side of the track. About six miles of steel has been renewed, most of which appears in the west-bound track. Effort is being made to do away, as far as possible, with grade highway crossings. East of Chatham Center an overhead bridge has been constructed to obviate two grade crossings. The approaches were not made at time of inspection. It is a matter that should receive attention, either by the town or company. The station buildings are as before reported. They are in the best of maintenance, very clean and the surrounding grounds neatly kept.

#### BRADFORD, ELDRED AND CUBA RAILROAD.

(Three-feet gauge.)

The line of this road between Little Genesee and Cuba, a distance of about twenty miles, has been entirely abandoned, and the rail taken up. The branch of about one and one-half miles in length between Bolivar and Richburgh has been discontinued and rail removed.

The main line is between Pennsylvania State line, near Bullis' Mills, and Wellsville, a distance of about twenty-seven miles. The track is mostly laid with thirty-pounds per yard iron rail. There are about four and one-half miles of steel rail of forty-pounds-per-yard section. The general condition of this road is very poor; a renewal of sleepers to a considerable extent has been made, but their general life is not what it should be. The iron rail has not depreciated very much since the last inspection, made in

1888, but at that time, and more clearly now, the necessity of an extensive renewal is urgent. As a whole, and especially east of Bolivar, little attention appears to be given to track adjustment, and the surface and line is very rough and irregular. Many rails are bent, often sharply, a result, in part, of decayed sleepers and want of ballast. The road was constructed with slight regard to permanence, the grades undulating abruptly, and no masonry was constructed. All the openings are entirely of wood, and mostly of hemlock. Crossing the Genesee river at Wellsville are two eighty-foot spans of through Howe truss, on bents at center and first panel points. The timber in trusses is much decayed, and the pile abutments and pier are in like condition. A new bridge and superstructure are of immediate necessity. There are thirty-three bays of hemlock trestle at east end of the bridge in fair condition, and ten bays of like trestle at the west end which need new track stringers and a renewal of a number of bents. West of Ceres is a through-truss bridge of about forty-foot span, having an arched upper chord. It is of crude design, and where gains are cut in upper chord to receive the ends of braces, the chords are broken, but held in place by wooden gibs at top of chords and holding by the truss rods. The structure is about four years old and timber is in fair life, but a new upper chord is needed, and one properly arched without bending the fiber of timber. The last truss bridge, other than those having girder rods, is a through Howe truss over Oswego creek, about ninety feet span. Approaching on the east are fifteen bays of pile and trestle bridge, and on the west seven bays of pile bridge. The pile abutments are badly decayed and a bent has been placed between the two rows of piles forming each abutment. Two or three strands in the lower chord and several floor timbers are much decayed. The trestle and pile bridge approaches are in very poor life, and the whole should be thoroughly overhauled or entirely rebuilt. There are thirty-three separate openings, from one to four bays each and from four to twenty-four feet spans. Two of these, which are eighteen to twenty-four feet openings; have girder rods, and all have floors. There are also ten openings, from four to twelve feet, that have rail directly upon the stringers. Four of these minor waterways are new; the remainder are in just fair life except five which should be rebuilt. A number of others have defective timbers. It is suggested that all the too old and partly decayed timber be entirely removed from all the foregoing structures, and that this work be done at an early day. Twenty-eight thousand new sleepers have been placed in the track for entire road of thirty-three miles during the past eighteen months, but the general life has become so low that almost all, other than the late renewals, need to be replaced. West of Bolivar is the better part of the road, but if it is intended to continue its operation there should be a large rebuilding of the openings, a greater tie renewal, a number of miles of new rail laid and a better track adjustment.

As a whole the fencing is fairly maintained, and at westerly end the roadway is very well kept. The road is certainly in very poor condition for proper speed of trains, although, as a whole, it is in better condition than in 1888. At Wellsville a small depot has been built. Other than this the station buildings and their condition are about the same as last reported.

#### BROOKLYN, BATH AND WEST END RAILROAD.

There is little change in the general outline of this property since the examination of last year. A large majority of the traffic is between the two termini at Brooklyn and Unionville. South of Unionville to Coney Island, the largest part of the passenger traffic is during the summer months. The road is double-tracked its entire length except the crossing of Coney Island creek, where the two lines of rails are interlaced on the draw and pile-trestle approaches. At time of inspection the Brooklyn terminal road was not in operation, although nearly completed, and the arrangement of terminals at Greenwood cemetery and at the foot of Thirty-sixth street adjoining the South Brooklyn ferry-house, was the same as at last report. The Union depot, corner of Twenty-seventh street and Fifth avenue, connecting with the elevated railway, was nearly completed but not in use.

There are but two openings in the road-bed. One is the draw-bridge with trestle approaches above referred to over Coney Island creek, and a plate-deck girder over the Brooklyn terminal road at city line. The crib pivot pier in the draw-bridge was rebuilt this spring above water line. There are five bays of pile-bridge approach, of eight feet spans each, with caps, stringers and floor in good condition.

The plate-girder at city line has good abutments, except that their wing walls are rather a poor character of work. The sleepers are in good life and track in very good adjustment.

Each of the depots was examined and found in good order.

At Bath Beach a covered platform on east side of tracks has been built, thus avoiding the necessity of passengers crossing the tracks.

The property is well kept up in all respects.

#### BROOKLYN AND BRIGHTON BEACH RAILROAD.

A double track road about seven and one-half miles long, between Flatbush avenue, Brooklyn, and Brighton Beach. There has been no change in outline of the property since the inspection of 1889. The only bridge of moment is the pile structure crossing Coney Island creek. This bridge is in good condition, having been in part renewed during the past winter. The superstructure is in fair track adjustment, but the sleepers as a whole are not in strong life. About 5,000 were to be renewed this year, and many of them of yellow pine were distributed for that purpose. It is quite possible that the proposed renewals will not be sufficient to strongly tie the road and it is suggested that all the too old and deeply rail-indented sleepers be removed from the main tracks. Generally the roadway is strongly fenced and neatly kept.

The passenger stations are the same as heretofore reported. The trucks of all passenger cars were being overhauled preparatory to their use in the summer business, which embraces the largest portion of the yearly traffic of the road.

#### BUFFALO, ROCHESTER AND PITTSBURG RAILROAD.

There has been an addition of about eleven miles to this road since the inspection of 1888. It extends from Lincoln Park near Rochester to Charlotte on Lake Ontario, connecting at that point with the Rome, Watertown and Ogdensburgh railroad. The new road is very well constructed, has easy alignment and a maximum grade of seventy feet per mile descending towards the lake. The roadway, generally about 100 feet wide, is strongly inclosed. It is single track, laid with seventy-one pounds per yard steel rails, fastened with the usual angle-bar, and sleepers are closely spaced. There is considerable truss bridging of steel, and a large amount of pile and trestle work. The most of the trestle bridging is to be filled and a train is now employed in that work. About halfway between Lincoln Park and Charlotte a branch has been laid to the shore of Genesee river, forming a connection with lake navigation, and extensive shipments of coal are made. This branch crosses over the Central-Hudson, Charlotte division, on a lattice through bridge of about seventy feet span. On the main extension there are six iron truss bridges from fifty to 130-feet spans, each resting on substantial masonry. The pile and trestle work aggregate about one and one-half miles in length, and from three to 160 bays each. All the stringers on these are pine, but the larger part of the bents are hemlock, and it was stated would be filled this season.

The main line, between Rochester and State Line and between Ashford junction and Buffalo Creek junction, was very carefully examined. Three miles of new steel rail have been laid near Rochester during the past year, and a large amount of road-bed rebalasted. There has been a considerable renewal of truss bridging in iron and steel since the previous inspection.

North of Mumford a through Howe truss 145-feet span was being replaced by a through pin bridge. The two seventy-six-feet spans of deck lat over Allen's creek, near Le Roy, have been rebuilt. The four old trusses were doubled up for one span, and a new steel Warren girder provided the other.

South of Le Roy, crossing the same stream, is a new steel Warren girder deck of ninety-two-foot span, in place of a Howe truss. Along the heavy grade at Warsaw about nine and a half miles of new seventy pounds per yard steel rails have recently been laid.

Crossing the Erie road near Silver Lake junction is a new iron viaduct forty-five feet high. It consists of four spans of plate-girder deck thirty feet in the clear, then a ninety-two-foot span deck lattice over the Erie road, and then two spans of plate deck girders. The masonry substructures are of an excellent character and the whole is a substantial work.

North of Bliss, crossing a highway, is a plate deck girder with excellent masonry abutments, all of recent construction.

South of Machias is a new plate-girder through, of forty-foot span. Between Ashford junction and Ellicottville are two Whipple Phoenix column through bridges, to be replaced with trusses. A span of sixty feet has been renewed with a steel Warren girder. South of Ellicottville is an eighty-foot span through Whipple truss, which requires a new floor. North of Salamanca junction, where was a Howe truss, there is a new steel Pratt pin-deck bridge, of 130-foot span. Crossing the Erie road, near Carrolton, are three 100-foot spans of through lattice, which were reinforced during the past winter. Adjoining this bridge, on the south, is about 3,800 feet of pine trestle, rebuilt about two years ago. There are about thirty bays of pile bridge in this structure, not rebuilt, but having a strong new floor, and bents are in fair life of timber. Between this bridge and State Line are a number of long trestles, which have been entirely rebuilt, since the last examination. One trestle 3,400 feet in length has been filled up. Of minor openings there are a large number, which are built entirely of timber. Many of these have recently been rebuilt with yellow pine. A number of short, single spans, having masonry abutments, have been entirely rebuilt.

A trestle of thirty-one bays, near Le Roy, is being rebuilt in yellow pine. All of the openings on this division were found in at least fair condition, and most of them in very strong maintenance, excepting the trestle north of Rock Glen, which it was hoped would be found filled up; it was not, and is in the most dilapidated condition of any piece of timber work in the road, in fact bordering on the dangerous. It is located on a sharp curve, and was partly filled a number of years ago. Some new trestle was erected on top of the new filling and a part of the old bridge retained. The new earth has settled and warped the bents out of position. In part this has been remedied, but the filling of the entire opening seems to be almost a necessity. The sleepers between Rochester and Mumford were found in stronger condition than when last examined, and further renewals were being made. Where this work has been completed they are in strong life.

For a short distance south of Rochester the line and surface of track, particularly the latter, is not good, but other than this the improvement of track adjustment as far south as Ashford junction is commendable. Between Ashford junction and State Line the sleepers are mostly in good condition and track nicely adjusted. One hundred and seven thousand new ties were used or to be used in 1889 and '90.

As a whole the road-bed is well drained and roadway neat and orderly. The fencing is the most neglected part of the maintenance of way. Generally it is in fair condition, but there are places where new fences are needed.

#### *Buffalo Division.*

Ashford junction to Buffalo Creek junction, Buffalo, a distance of forty-five miles, all single track. With the exception of masonry pedestals and abutments under the high viaduct over Cattaraugus ravine, there are no openings having masonry substructures. There are twenty-five pile bridges from one to thirty-two bays each, and fifty-five trestle openings from one to thirty bays each. The one having thirty-two bays is on a six degree curve, has hemlock piles, which are in poor life, and the entire structure needs to be rebuilt or a culvert erected and bridge filled up. There are four other pile bridges of three or four bays each in like condition. The trestle bridges are largely of new construction in pine. A number which have not been rebuilt, require new bents, and a few should

have new floors. At bridge 40, west of Riceville, is a three-bay trestle, having new bents. The clay slopes on the southerly side of road are sliding towards the track, which is about 200 feet above the bed of stream and slope very steep. The clay slips off the shale rock underneath, and there is danger of pushing the trestle down the slope. The loose material above the road should be removed as a precaution against possible accident.

West of Riceville is a through Howe truss, 100-foot clear span, resting on new double bent abutments. These double bents are constructed to admit of masonry being erected between them. The truss is about seven years old, in fair life, but below the standard strength for loads now imposed. An iron or steel bridge is soon to be erected in its place. West of Golden is a 100-foot span through Howe truss in like condition. An iron bridge is to be erected this season. These two constitute the truss bridging on the Buffalo division other than the Cattaraugus viaduct. As a whole, the track maintenance is quite good, especially considering the great want of ballast. Nearly all the pit cattle-guards have been filled, and slats secured to the sleepers substituted. The sleepers are in very good life and road-bed well drained. As above stated, there is a want of good ballast, especially on the ends of the division.

The Perry branch, one and one-third miles in length, connecting the Buffalo, Rochester and Pittsburg with the Silver Lake railroad at Silver Springs depot on the Erie road, is in better condition than when last examined. Three of the trestles, aggregating 180 feet in length, after having box culverts built in each, for passage of water, have been filled. This leaves but one opening, which is a newly overhauled trestle about 400 feet in length. The sleepers on this branch have been largely renewed and the rail is in good order. The track is in quite ordinary line and surface, which a little effort would improve and maintain, as the train service is light.

Each of the passenger buildings were examined, and were found generally in good condition and cleanly, a few were noticeably neglected in this respect. Warsaw, Rock Glen, Eagle and Glenwood were not as tidy as desirable. The depot at Great Valley Center is being repaired. At Salamanca junction a depot is being erected upon a new location, in place of the one recently burned.

All sidings with a grade towards the main track have throw-off switch-rails, which are left open when not used in the movement of cars. The cross-fences and warning signs at highways are well kept up.

The entire property shows marked improvement since the inspection of 1888.

#### CLOVE BRANCH RAILROAD.

A single-track road from Clove Branch junction with the Newburgh, Dutchess and Connecticut railroad to Sylvan Lake, a distance of four and one-quarter miles.

The New York, Boston and Montreal railway, four miles in length, from Sylvan Lake to Clove Valley, is leased by the Clove Branch Railroad Company. The traffic is quite meager, one train each way per day sufficing for the business of the road. The maintenance of superstructure is intended to be sufficient to safely operate the road at a speed of about ten miles per hour. The rails are iron, with fish-plate fastenings. The sleepers are generally too low in life and at least one-fourth should be renewed. The track adjustment is quite ordinary. The roadway is very well inclosed with wire fencing and is very well kept. Each of the openings in road-bed were examined. A ten-foot span waterway, near the junction, has stringers ten by fourteen inches section and dry rubble masonry abutments. Another opening, same width, has two stringers under each rail seven by fourteen inches section. A thirteen-foot clear span has twelve by fourteen inch stringers under each rail. An eighty-foot span low through Howe truss, built of yellow pine, is in good life and has masonry abutments. The next opening of moment is a fifty-foot span Queen truss, with ten bays of trestle approach at north end, three bays same at south end, and all fourteen years old. The truss bridge approaches require considerable renewal or, better, should be rebuilt. highway is crossed over with a thirty-foot span truss girder. The girder

are three in number, eight by sixteen inches section, and two truss rods. The bridge is in very good life. A waterway nine feet wide, having trestle bents, needs repair. The lagging in rear of bents is decayed and adjoining road-bed fallen into opening. This defect was immediately repaired. There is a small frame depot at Sylvan Lake, an iron turn-table and a two-stall frame engine-house. No other depots of moment. As before stated, the road is little used. Nevertheless, the bridges should be strong, and track better maintained.

NEWBURGH, DUTCHESS AND CONNECTICUT RAILROAD, }  
GENERAL SUPERINTENDENT'S OFFICE,  
MATTEAWAN, N. Y., October 27th, 1890. }

*To the Board of Railroad Commissioners:*

Since Mr. Spencer's inspection of the Clove Branch Railroad, May 13th, 1890, a good many ties have been put in the road, probably about one-half the number he suggests, and we have arranged to put in more early in the spring.

As to the bridges and culverts mentioned in Mr. Spencer's report, a part of the materials necessary for the renewals recommended are on hand, and the remainder has been ordered and is under way from the south. As soon as this material arrives we shall proceed at once to make the repairs suggested.

Great caution is used in running trains over the road.

Yours very truly,

C. L. KIMBALL,  
*Superintendent.*

#### DELAWARE AND HUDSON CANAL COMPANY'S RAILROADS.

About 570 miles of road are now operated in the State of New York by the Delaware and Hudson Canal Company. During the past six years radical changes for the better have been brought about in the physical condition of their lines, and inspection the present year finds no abatement in the amount of improvements since the previous examination of 1888.

#### *Binghamton to Albany.*

The bridges and minor openings, which were entirely, or in part, constructed of timber, have, to a great extent, been changed to masonry and iron. When it had become necessary to renew the timber stringers of short spans, say up to about nine feet, T-rails have been used. For longer spans, rolled beams or plate girders have been substituted. A few trestles have been filled. Other timber openings have now arch and box culverts and openings filled.

East of Osborn Hollow, at the crossing of a highway, where was an iron girder on high abutments, a forty-foot span arch culvert has been built. It is a very fine piece of mechanical work. East of the tunnel, where was a trestle, an arch culvert has been built and trestle filled. East of Afton a grade crossing has been carried under the road, which now crosses overhead on a plate girder with substantial abutments. East of Otego two farm under-crossings have been changed from trestles to masonry and plate girders, and a seventy-foot span of lattice also changed to a Warren girder of greater strength. East of Maryland a double arch culvert, for highway and stream passage, has been built. One arch is fourteen and the other six feet chords and is an excellent piece of work. West of Worcester, where was a trestle flood-bridge, there are now four spans, of ten feet each having cut stone abutments and piers. East of Guilderland are two new arch culverts where were trestles; an iron bridge has been removed, an arch culvert built, and the three openings filled. The foregoing does not enumerate all the masonry constructed in the past two years. Several small openings, such as cattle passes, under farm crossings and waterways, with poor masonry or trestle bents, have now new masonry substructures. The stone used is an excellent quality of gray lime. There are ten trestle bridges between Binghamton and Albany, aggregating in length about 900 feet, a few of which have hemlock bents, but all have pine stringers and are mostly in strong life.



Eleven masonry substructures are in poor condition and generally have bents inside the abutments to uphold stringers. These are usually short openings. Bridge 86, a forty-foot span plate girder, has poor abutments and girders rest on bents. Some of the poor masonry and trestles are where the road is yet to be double-tracked, and are probably being retained until the second line is laid. All truss bridges are now of iron or steel. There are two suspended truss-girders, of about twenty-foot spans, made of T-rails which have bents under the angles of trusses. These are either too light or too flexible and rivets work loose. Several similar bridges have been taken out and plate girders substituted. All of these defective structures are secured and no disaster by their failure need be apprehended. The superstructure is in good condition, except that the sleepers have not been thoroughly renewed at all points. Stretches were observed deeply indented by base of rail and in some instances decay was too apparent. The inspection was made rather early, and as late as October the work of renewing was seen on the northern division. Possibly delay in obtaining new ties may have retarded renewals on this division. The adjustment of track is mostly very workmanlike, and the superstructure is for the greater part well ballasted with gravel. Broken stone is used to a considerable extent. The road-bed is generally well drained, roadway orderly and fences as a whole in good condition. Gates are used at all farm crossings.

The depots are the same as before reported, excepting that at Voorheesville, jointly occupied with the West Shore road, where a new passenger building has been erected. It is a frame structure, neatly designed. The waiting-rooms of the depots at Sidney, Maryland and Cooperstown junction, have been thoroughly renovated, especially the latter. Planking along the tracks is generally discontinued and gravel walks substituted.

#### *Albany to Rouse's Point,*

A double-track road from Albany to Gansevoort, forty-nine miles, and from thence single track, 149 miles, to Rouse's Point. The second track between Saratoga and Gansevoort, eleven miles, has been constructed during the present season. A further extension of the second track to Fort Edward, a distance of six miles, is now under construction. The line via Green Island forms the second track between West Troy and Waterford junction, a distance of six miles, each are operated as a single track road. Between Albany and a point about two miles north of Whitehall, a distance of eighty miles, there are no timber trusses or girders, except the Howe trusses crossing arms of the Mohawk river near Waterford, on the line via Green Island. The other trusses are of iron, and short spans have plate girders or those made of railroad bars.

The iron work has mostly been repainted. The masonry substructures of all the openings between Albany and Rouse's Point are in good condition, except at the crossing of the Champlain canal, near West Waterford. The berme abutment leans at top about six inches inside of perpendicular. A strong bent upholds the truss, and abutment will probably be rebuilt at the close of navigation. It has been used about thirty years. North of Plattsburgh a number of dry rubble masonry abutments at short openings have been rebuilt, leaving but one or two more which require relaying. A few short spans have docking abutments in good condition. Bridge 39, a trestle north of Willsborough, referred to in last report, has been removed, and two 100-foot spans of lattice deck, with excellent masonry substructure, have been built. North of Port Henry, where was a Howe truss, is now a half-through plate girder of fifty-foot span. The abutments are newly built. The sixteen-foot water-way, no of Putnam, has now a good deck plate girder. The two Howe truss bridges over the Mohawk river at Waterford, consisting of five 100-foot spans one, and two similar spans in the other, appear to be in fair life of time. Some repairs have been made, and a few oak angle-blocks have replaced those of iron, which were broken. At a panel point in the longer bridge near north end of one span, and on the westerly side, fire has burned entirely through between the inside and adjoining strands of the low chord. The extent of the burn is about equal to the loss of strength one strand. Shackles around the chord, each side of the defect, and it

rods, supply the lost strength. There are other defects which have been temporarily remedied. These several spans have been in use some time, and when renewed in iron, all the timber trusses on the main line between Binghamton and Rouse's Point, 341 miles, will be removed.

Aside from these two on main line and those which may remain on the Adirondack road, not inspected this year, two Howe trusses, between Granville and Salem, one on the Baldwin branch, one on the Glens Falls branch and those south of Nineveh on the Pennsylvania division, there are no timber truss bridges on the lines of the Delaware and Hudson Canal Company in New York State.

There are nine trestle bridges on main line north of Albany, all but one being north of Whitehall. South of Waterford is a trestle of twenty bays, built of yellow pine, and in strong life. Across the swamp lands on Lake Champlain, near Whitehall, are 287 bays of eleven feet span, about ten feet above the surface of swamp. Seven hundred feet at south end has recently been filled. This trestle is in fair condition of bents, and has a good floor. Marks of fire are frequently seen, and watchmen are constantly employed, but it would be much better to fill the trestle if practicable. An embankment would require heavy rip-rap on both sides. North of Dresden are eighty-three bays of similar trestle. The timber in this appears older than the other, but probably built at the same time. Possibly there would be difficulty in filling, but if accomplished it would be a good work. South of Putnam are two trestles, with the same conditions as the others. One of these has forty-two bays, and the other twenty-nine. The latter are on a four-degree curve, and a few bents are eight inches out of perpendicular. Another trestle of five bays north of Putnam is in fair life. The trestle at the loop line, forming a connection with the steamboat landing at Fort Ticonderoga, was not in use and its inspection was omitted. It was newly built of yellow pine about three years ago. North of Crown Point is a newly constructed trestle about 300 feet long, and on a curve. A sudden sinking of the road-bed was the cause of its construction. The road-bed had been in use for perhaps thirty years, and while the tradition is that a somewhat similar experience was had when first built, no disturbance had been noticed for at least twenty-five years. The ground sank nearly perpendicular, rather than sliding sideways into the lake, but the silt or muck was crowded out a considerable distance. The rock bluff exposed by the sinking of earth is nearly vertical. North of Port Henry are thirty-nine bays of trestle, on a curve, and in good order, excepting a few of its ties. The foregoing are all the trestles on this division. There has been considerable rebalasting of road-bed. Where the new double-tracking has been done the plane of grade has been made more uniform by raising embankments and lowering cuttings. The superstructure is in good adjustment, rails in good order and the sleepers were being rapidly renewed at time of inspection. Where this had been done their general life was strong. Should the renewing be continued, and as thoroughly done, it will remove all the too-long used ties, of which there are yet a considerable number. The fences and roadway are generally in good condition and neatly kept. The line of ballast is clearly defined and road-bed looks well. North of Plattsburgh and South of Whitehall this is especially true. The superstructure along the sharply curved line in the rock bluffs by the lake is strongly maintained, and watchmen constantly guard against obstructions by falling rocks or other dangers that might arise. At Rouse's Point a new brick depot has been erected. It is well built and conveniently arranged. At Whitehall a complete change in yard and tracks was in progress. A brick engine-house of fifteen stalls and a repair shop, two hundred and fifty feet by fifty feet has been erected. The old depot is still in use, but will probably be moved and renovated or a new one erected.

#### *Nineveh to Pennsylvania State Line,*

A single-track road, except for one and one-half miles out of Nineveh. In the exception of some of the wooden truss bridges, this branch is in very good condition. Considerable new rail has been laid and the sleepers, except near the State line, are in very good life. The track is well used, ditches and fences in good order, and roadway neatly kept. South of Nineveh is a deck Howe truss of sixty-foot span, covered,

which appears in good condition. Crossing the Susquehanna river are three spans of 150 feet each. One of these is a newly erected pin through truss. The two others are through Howe trusses. The south span is on bents and has very much too old timber. It should be renewed. South of Center Village are two low through Howe trusses, or rather should be defined as straining-beam trusses. They are each thirty-two feet clear span and are seriously decayed. New bridges are necessary. South of East Windsor is a similar truss in just fair life. Near this is a forty-foot span low through Howe truss. It is a strong bridge and in good life. Three bays of trestle, and the only ones, have been filled. There are no timber girders at short openings, of which there are twenty-six. They have either plate-girders, rolled-beams or T-rail girders, and each opening has a good floor.

No change has been made in the passenger stations since previous inspection. They were all examined and found both clean and in good condition.

#### *Cobleskill to Cherry Valley,*

From Cherry Valley junction with main line to Cherry Valley, about twenty-one miles, all single track laid with steel rail taken from main line. The bridges, trestles and minor openings in this road are in about the same condition as reported in 1888. Each of them was examined and with few exceptions were found to be in good order. There are four low trestle bridges aggregating twenty bays of about twelve-feet spans. The trestle north of Hindsville wants repairing, otherwise it is in good life. There are three iron bridges two of which are plate-girders and one a lattice-deck; one is thirty and the others sixty-feet spans. They have good rubble-masonry abutments. There are thirty minor openings such as cattle-guards, waterways and cattle-passes, from four to eight feet wide. Except two, all have girders of T-rails and with one exception masonry abutments. Some repair of lagging is needed at the opening having timber abutments, other than this they are in good condition. The rail is in fair order, sleepers in medium life, and track adjustment very good. The depots are as before reported. The Cherry Valley station has been improved.

#### *Coons Junction to Glenville Junction.*

This road branches out of the main line about one mile north of Mechanicville, and closely parallels the Fitchburg railroad a number of miles, in fact, forming together a double track, but operated independently. At Glenville junction it is joined by the line from Ballston and together form a double-track road to Schenectady. Between Coons junction and Glenville junction there are fourteen short span waterways and cattle-guards, all having fair masonry and T-rail girders with good floors. There are four plate girder deck openings, from twelve to twenty feet spans. They have good masonry abutments, except one of twenty-feet span, which has stone so much disintegrated as to require bents under ends of girders. There is one deck lattice, of one-hundred-feet span, adjoining a through lattice, on the line from Ballston. East of Ushers are two seventy-feet spans of same style of bridge. These have excellent substructures and good floors. As a whole the sleepers are in strong life, having been largely renewed this year.

The track is in good line and surface, ditches well opened and roadway clean and well inclosed with wire fence.

There are two regular stations, Ushers and Jonesville. They have good frame buildings and comfortably furnished waiting-rooms.

#### *Ballston to Schenectady and Quaker Street.*

From High Street junction with main line to Rouse's Point, about one mile west of Ballston, to Quaker Street, a distance of about twenty-ei

mile, where a junction is made with the main line to Binghamton. Bridge 28 has two ninety-feet spans of deck lattice which have been newly floored. Near Glenville junction is a one-hundred-feet lattice through in good order. Crossing the Mohawk river are five one-hundred foot spans of deck three-truss lattice, of width only for single track. The center truss is a reinforcement. The bridge is in good condition.

Crossing the Erie canal is a one-hundred-foot through lattice. West of Kelly's are five fifty-foot spans and one sixty-foot span deck-lattice viaduct, on iron piers resting upon masonry. The floor of this bridge needs to be renewed.

East of Kelly's are six fifty-foot spans of the same design, and about fifty feet from floor to the bed of the stream. It is in good condition. East of Duaneburgh is a viaduct of three sixteen-foot spans, with piers and trussed girders, both constructed of railroad iron. It is in good order, unless a few rivets may be loose. There are two other like trusses, of twelve and fourteen-foot spans, which are in good order, and three separate plate deck girders of twenty-foot spans, one of which is of recent build. All these bridges have substantial masonry and strong floors, except the one noted. There are thirty-one openings in the road-bed from four to twelve-foot spans, all having good masonry abutments, some of which are of late construction, and all have T-rail girders. There are four trestle bridges, all west of South Schenectady. They aggregate nineteen bays of eleven feet each and constructed of pine. They have good floors and timber is in fair life. South of Schenectady the rail is quite a little worn; other than this it is in good condition. The track is in very good line and surface, and on some sections very nicely adjusted. The fences are in fair maintenance, particularly east of Schenectady. The sleepers have not been as thoroughly renewed as they appear to require. Some, thrown up by frost, have been deeply cut into, and spikes reach through the tie; others are far gone with decay. Where renewals have been made, however, they are in strong life. Yellow-pine ties were scattered along the line ready for use in renewals. The passenger stations are the same as before reported; except at Schenectady, the depot is either new or entirely remodeled.

#### *Fort Edward to Caldwell,*

A single-track road about sixteen miles in length. A special examination of this line was made July fourth of this year, and a detailed report of its condition transmitted to your honorable Board July fourteenth. Each of the bridges and minor openings were examined and the condition of the superstructure carefully noted.\* By request of the company the regular biennial inspection, which began at Binghamton June seventh, was adjourned till October, and this line was not again examined for want of time.

\* The report referred to above is as follows:

*To the Honorable the Board of Railroad Commissioners:*

GENTLEMEN.—Agreeable to your instructions, I made, July 4th, an examination of the Glens Falls branch of the Rensselaer and Saratoga railroad, operated by the Delaware and Hudson Canal Company, between Fort Edward and Glens Falls, a distance of six miles. With one exception, the truss bridging consists of iron, as reported in 1888. There is one plate-girder deck bridge of four spans, and the minor openings have T-rail girders. There is one low through Howe truss over a railroad used for hauling logs from the river to a saw-mill, which occasions some apprehension of danger from fire, otherwise no objections can be made, as it is well supported by bents, and looks to be in fair life of timber. West of this bridge is a trestle of five bays, forming an under-farm crossing. The floor is strong and in good order. At Fort Edward, approaching the plate-girder deck before referred to, are thirteen bays of trestle, all of which are in fair condition. There are a few minor openings which have rubble masonry abutments, T-rail girders, and all have a strong floor. Quite a number of sleepers were noticed as too old to properly hold track in place, but as a whole, especially on curves, they may be said to be in very fair life. The work of renewing ties was in progress, and, as suggested, be continued until every decayed, or too deeply indented tie be renewed. The track is in very good adjustment, and fences as a whole well maintained. The depots at Fort Edward, andy Hill and Glens Falls are frame structures in good condition and comfortably furnished. Between Glens Falls and Caldwell: a distance of ten miles, a very careful inspection was made by walking

over the track. This portion of the branch is of more recent construction. It has sharp curvature, and at westerly end a very heavy grade. There is an excessive amount of curvature between Bloody Pond and Caldwell, which is being reduced by change of location and regrading of road-bed. The track is laid with steel rails, which have been in use at other points as shown by numerous ends having one-half of head of rail broken off, but, in relaying, are carefully turned to present an unbroken flange side. One rail was noticed as having one-half of head gone for six inches in length on inside. The turning, or better, the replacing of this rail is undoubtedly an oversight on part of section men, as the breakage appears to be of recent occurrence. Over 200 joints were found (and, in fact, I ceased to count as it was so general) without a full complement of bolts. Usually one was omitted, but quite often there was but one bolt in each rail. Angle-bars and fish-plates, mostly the latter, are used for rail fastenings. The angle-bars quite frequently were found split off between the upright and base, caused apparently by the creeping of rails where angle-bars were spiked in their slots. All missing bolts should be restored, and the rail fastenings fully bolted. Undoubtedly, they never were in place since the track was laid with steel. It would also be much stronger and safer to replace all the rails broken at ends, which are but few in number, and such of the rails as are most worn, particularly on curves. A careful examination was made of the sleepers, the renewals of which appeared to be progressing. There are a large number of good ties delivered in piles along the road (possibly for the new second track between Gansevoort and Whitehall), but which could be aptly used on this branch, and it is respectfully suggested that all ties too much worn, i. e., cut into by the rail, or by decay, or have become unable to strongly support the rail or hold track firmly in gauge, be renewed as speedily as possible. There were found too many of the sleepers thus overworn or decayed. Both wear and decay are equally divided as elements of destruction. Possibly they wear out more than they decay. The section of at least one-half the ties in the track is quite small, too much so for the volume of traffic, as they were found largely indented by base of rail. Ties were noticed thus affected as deeply as two inches, leaving but four inches thickness of tie and of that a part decayed. Seventeen sleepers are used per rail length of thirty feet and no addition for small ties was noticed. The train service is frequent and heavy during the summer months, and a strongly tied track, especially on sharp curvature, is very necessary. It would appear to a disinterested person that on portions of this branch the sleepers have been held too long without renewal. Your Inspector did find ties from which he could readily draw the spike with his fingers, but strong ties were adjoining, and it was on portions of track where there appeared to have been no renewal this season. A stronger maintenance generally would be very desirable for actual safety; of this there can be no question. At the point on Glen lake, where the recent derailment occurred, most all new sleepers were found. Just what their condition was before the accident your Inspector is unable to say, but looking at a pile of old ties near by and at those in the track each side of point of derailment, they appeared as if they had been in the track too long for such sharp reversing curvature and short intermediate tangent. Stakes were noticed indicating a purpose to modify the alignment, as now being done at the west end of the branch, where the improvement is marked. The openings between Glens Falls and Caldwell were examined and each found in excellent condition. At Caldwell the depot, train-shed and docks are the same as before reported and in good order.

T. W. SPENCER,

*Inspector*

Under date of July 25, 1890, the Delaware and Hudson Canal Com. announced to the Board that it would carry out the recommendation of the Board, as expressed in its Inspector's report, as above, and was doing so.—R. R. COMBS.

*Fort Ticonderoga to Baldwin,*

A single-track, four and one-half miles in length, connecting the main line at Fort Ticonderoga, with the northerly end of Lake George. The sleepers have to considerable extent been renewed, and further like work is in progress. There are a few minor openings, such as waterways and cattle-guards, west of Ticonderoga. There is but one truss bridge, which is over the outlet of Lake George, at Ticonderoga. It is an A truss of three fifty-foot spans, and has crib abutments and piers. The timber is getting old and is somewhat sap rotten. There are needle beams at panel points, twelve by fourteen inches section, which are insufficient and too flexible. A timber strut has been placed underneath their centers with bottom resting on rock bed of the stream. The bridge will require rebuilding at an early day.

The superstructure of this road is being partly laid with steel and adjustment of track improved.

*Whitehall to Vermont Line,*

A single-track road about seven miles in length in this State. New steel rails have been laid, the sleepers raised to a strong life, road-bed well ballasted, short sags taken out and the track nicely adjusted since the inspection of 1888. The culverts have been relaid, at least at their ends, and the small bridge abutments entirely. Considerable fencing has been rebuilt, the ditches well opened and the entire road is now in excellent condition. At Whitehall there is an eighty-foot span low through lattice, in good order, and has a new floor. Crossing Pawlet river is a through pin bridge 140-foot span, and the two thirty-foot spans of plate-deck girder approach have been removed. At the crossing of Poultney river, the center of which is the State line, is a seventy foot span deck lattice about forty feet high. The broken abutment at this point has been relaid and it is now a strong piece of work.

*Poultney to Eagle Bridge,*

A part of the Rutland and Washington railroad. The road commences in this State at the State line, near Poultney, and runs thence southerly several miles and thence into Vermont. About one mile south of West Rupert the road again enters New York, and continues so to its junction with the Fitchburg road at Eagle Bridge. The length in New York is about thirty-two and one-half miles, all single track, laid with steel rails with fish-plate fastenings, formerly used on the main line. The road has been greatly improved in the past four years. There are twenty-one openings, from four to eighteen feet in width, all but five of which have good masonry substructures and two have T-rail girders. Two or three of these openings have poor masonry. In addition to these there are thirty-one cattle-guards, constructed of timber. All of these minor openings, except as noted, have timber girders, most of which are in strong life. There are twenty slat cattle-guards, about one-half of which have iron slats. It appears to be the intention to use slat guards whenever there is necessity for renewal.

There are three through Howe truss bridges in good life. One is forty feet, one sixty-five feet and one ninety-foot spans. There are sixteen iron bridges, thirteen of which are plate girders, from sixteen to eighty-foot clear spans, and three lattice bridges of two spans, of about one hundred feet each. All these have excellent masonry substructures newly built. Considerable ballasting has recently been done and plane of grade improved. The track is quite well adjusted, roadway neat and orderly, and the fencing in fair condition. There has been no change in the depot buildings since previous inspection, except a new one at Eagle Bridge in place of one burned.

*Plattsburgh to Ausable,*

A single-track, about twenty miles in length, laid with iron rails fastened at joints, partly with chairs and partly with fish-plates.

The sleepers were being renewed with yellow pine at time of inspection, work quite necessary, especially at the southerly end of the line. The track is considerably worn, and occasionally joint bolts in the fish-plate rail

are missing. The road has a very light traffic. There are two trestle bridges, one has twenty-three bays, and is about fifty feet high at extreme point, its timber yellow pine, and is in fair life; the other is a trestle of ten bays, about thirty feet in height; the bents are in medium life of timber, the stringers have more strength, and it has a good floor. These bridges have lately been repaired. There are two lattice-deck bridges in good condition. One of these, bridge 54, has a defective wing and retaining wall about fifty feet in length and twenty-five feet in height. The masonry is broken, and held in position by timber struts. The sleepers are in very good life where renewed this summer. The track is very well adjusted, roadway clean, free from old debris, and fencing generally well maintained. No changes in the station buildings since former report.

*West Chazy Junction to Moore's Junction and Province Line,*

A single-track road, about thirteen miles in length, laid with iron rails secured at ends with fish-plates. The rail is considerably worn, and occasionally joint-bolts are omitted. One train per day each way constitutes the train service for most of the year. The road is not maintained with the same thoroughness as the main line, but is kept in condition suitable for its work. There are a number of abutments at small openings which are defective, and the girders are supported with bents. There are no truss bridges.

Near Chazy junction is an opening twelve feet wide, spanned by a plate-girder. The masonry is dry rubble work, in fair condition. North of Sciota are two plate-girders over spans of sixteen and eighteen feet. The former has good rubble masonry, laid dry, and a new floor; the other has same kind of abutments, but they are broken, and bents inside support the girders. South of Moore's junction are two fifty-five-foot spans of through-deck girders, resting on good masonry. There is also in the same locality one under farm-crossing of twelve-foot span, having timber girders, with poor masonry and shored up. North of Moore's junction is a waterway of sixteen-foot span, with masonry in like condition. North of Chazy junction is a twenty-foot opening, having a bent at the center. The masonry abutment at one end is broken, and should be relaid. There are a number of minor openings, from three to five feet spans, in fair condition, and mostly have T-rail girders. The track is in fair adjustment, and sleepers in rather poor life, except where renewals have been made this year. The tie renewals have not been completed, and section men were engaged in that work. The roadway and bed are neatly kept, and fences in fair condition. At Moore's junction there is a frame depot with one waiting-room not very well kept.

**DUNKIRK, ALLEGHENY VALLEY AND PITTSBURG RAILROAD.**

No change has been made in the outline of this road since the previous inspection. It is a single track, laid with steel rails, excepting one mile of iron on the roadway of the New York, Lake Erie and Western at Dunkirk. About one mile of new steel rail has recently been laid along the clayey side hill south of Laona.

The truss bridges and small openings were each examined and found in various conditions. Commencing at Dunkirk is a waterway of eight-foot span near the company's shops. The masonry is in bad order and bents have been placed inside to uphold the stringers. North of Fredonia is a ten-foot span waterway, having abutments about twelve feet in height. The masonry is shattered, and new bents of hemlock have been placed inside. North of Falconer is a twelve-foot span trestle, under farm crossing, which requires new sills. South of Laona are two spans of double intersected lattice deck bridges of eighty feet each. The pier, thirty feet in height, is in poor condition, also the parapet above bridge seat of north abutment, the wall leaning against the end of truss. The pier has bents placed each side and under the trusses. The floor is in good order. At Sinclairville is a seventy-foot span through Whipple truss. The first set of diagonals at north end of west truss do not work in unison. Upper stress one diagonal is loose, the other carrying weight imposed. It was suggested that the truss be placed on false work and repairs made. At the

of Gerry is a fifty-foot span through, low, McCollum truss in good life, excepting the floor beams and track stringers are too old. Possibly a new bridge of iron will be erected. South of Gerry is a 120-foot span through Howe truss, three years old. A few new floor beams are wanted, otherwise the bridge is in good condition. Over Conawango creek is a 180-foot span through Howe truss on bents at each panel point. The timber for a new bridge is on the ground, but at time of inspection an iron structure was being considered. The masonry is in poor condition and the whole structure will undoubtedly be rebuilt this year. South of Frewsburch is a forty-five-foot deck lattice in entirely good order. It was stated that high water had engulfed the truss up to its floor. It is suggested that the structure be changed to a through bridge, raising the trusses above flood level. In addition to the above, there is north of Cassadaga a deck lattice bridge of three fifty-foot spans, resting on iron piers well supported with masonry, all in good order. The iron work has been newly painted. South of same place is a forty-five-foot span deck lattice, the whole in good condition. South of Falconer is a forty-foot span deck lattice, with two bays of trestle approach at each end, all in good order. Near this last is an eighty-foot span low through lattice, with two bays of trestle approach at each end, all in like good condition. There are about sixty other openings in road-bed, from three to twelve-foot spans and from one to thirty bays each, twelve of which have masonry abutments. They are generally in good condition and nearly all have good floors, a few have plank ties. A trestle of twenty-three-bays, at a point near Cassadaga where the road-bed had moved down the hill side, is in fair condition. The stringers are not all in good life. The sleepers are renewed yearly at an average of about 400 per mile. They are in good life generally, but at a number of points their strength should be increased. The track adjustment is fair, and road-bed, with few exceptions, well ditched. Generally the fencing is well kept up and the roadway orderly. On portions of the road brush and weeds are allowed to accumulate.

All the passenger stations are frame structures. A new depot has recently been erected at Sinclairville. It is conveniently arranged and well furnished. The depot at Gerry has been moved to the east side of track and thoroughly renovated. Frewsburch depot needs some repairs.

#### HERKIMER, NEWPORT AND POLAND RAILROAD,

(Narrow gauge),

A three and one-half feet gauge road, about seventeen miles in length. A special report was recently made to your honorable Board of the physical condition of the truss bridges on this line. The first of these is a sixty-foot span, crossing the hydraulic canal at North Herkimer. The trusses are in good condition, and have good masonry substructures. The north abutment has been built since the previous inspection; a few new floor beams are needed. North of Middleville are three ninety-foot spans of low through Howe truss, the lower chords of which are in bad condition. It is now on bents at the fourth panel points in each span. The timber is in good life, but the lower chords are drawing apart, either from insufficient material or, possibly, a defect in framing. The trusses all require new chords or a thorough overhauling, and removal of strands that have broken at splicing. New chords, of larger sectional area, are probably the best remedy for the weakness. This should be done at once, as the stream crossed is violent at times of freshets, and in the spring the ice flow is very heavy. A recent freshet has already removed one bent, which was at once replaced. The abutments and piers are in good order. North of this structure is a similar bridge over the same stream (the West Canada creek) of three spans, each seventy-two feet in length. There are no signs of failure in these trusses, and the timber is in strong life. Adjoining this bridge is a floodway of four spans of twenty-six feet each, with girder-rod trusses. They are of strong construction, and in good life of timber. The piers and abutments of all these openings are of a strong character of rubble work, laid in cement, and all in good order. South of Poland, crossing the same stream, is another similar bridge. It has three seventy-foot spans of low through Howe truss, in strong life of timber and otherwise in good condition. They have good masonry substructures.



tures. Between these two last bridges there is a low through Howe truss of about forty-feet span. The bridge and abutments are in good order. There are fifteen girder-rod trusses, from twelve to thirty-feet spans, exclusive of the flood bridge referred to. They were, with their substructures, carefully examined, and found in good condition. All the timber substructures, except one little opening of four-feet span, have been replaced by good rubble masonry. The timber girders have, to some extent, been renewed, and only a few were noticed as somewhat old in life. A considerable masonry has been built, and a large amount of road-bed ballasted since the inspection of 1888. Ties of standard gauge length, formerly in the track of the New York Central, very little if any decayed, but worn into by base of standard gauge rail, are extensively used, and to advantage, on this narrow gauge line. They make a strong support for the rail. The track adjustment is good, and rails in fair condition. Sixty pound steel, previously used on the New York Central, has to some extent been used in renewals.

The ditches are kept open, noxious weeds cut, fences fairly maintained and the roadway neatly kept. There are no changes in the passenger buildings. At Herkimer, the Central Hudson depot is used. Newport and Poland have good frame depots, in good order and neatly kept. Middleville has a house which is used for station purposes.

#### LONG ISLAND RAILROAD.

The system of railroads operated by the Long Island company were last examined in 1888, a report of which will be found on pages 241 to 243 in the first volume of the Commissioners' report for that year. Two additions to this property have recently been made. The Glen Cove branch has been extended four and one-half miles to Oyster Bay, and the New York and Rockaway, formerly the New York, Woodhaven and Rockaway railroad, ten and three-quarters miles in length, has been leased. A careful examination was made of nearly all of the Long Island system. Those parts of the road omitted are mostly little used except during the summer season, or are known to be in good condition and have few, if any, timber structures in road-bed. The Stewart railroad and its extension, which was one of the omitted branches, has iron bridges in good condition, and reinforced within the past three years. The branch four miles in length to Bay Ridge was also omitted. On this there is one bridge of iron which crosses over the Prospect Park and Coney Island railroad. The terminal at Bay Ridge was examined a few days previous to this inspection. Its sleepers are in about the same condition as other parts of the road, and will receive a like proportion of renewals. At Long Island City some changes have been made in the terminal buildings and yard tracks. The shops have been demolished, and sidings laid on the ground they occupied. The long storage-shed on the water front west of the passenger depot has been remodeled for express and baggage purposes. The southerly end of depot yard is crossed nearly at right angles by Vernon avenue, a street extensively used by teams. There is a draw-bridge over Dutch Kill, on this avenue, about 600 feet west of the railroad crossing. The sidings in yard concentrate into the main tracks before crossing this avenue, and it was stated that an average of 1,200 crossings were made by locomotives each day. Two flagmen are kept on the crossing, but the delay of street and railroad traffic has become very burdensome and dangerous. It is impractical to make an under or over crossing, but a divergence of a large portion of the street traffic could readily be accomplished by opening and paving a street along the westerly side of the depot yard, and thence using the crossing in front of the passenger station. It is a matter requiring the coöperation of the city and railroad company if anything really practical is brought about.

#### *Long Island City to Great Neck,*

Known as a part of the north-side division, and is fourteen miles in length. The superstructure has been improved in part by laying new steel rails of seventy pounds section, and a second track between Winfield and Whitestone junctions. At Newtown a brick depot has been erected.

Crossing a highway, a plate-girder forty-foot span and new substructures have been substituted for timber work. All the pile trestle over Flushing meadow has been filled excepting a few openings left for tideway. Crossing a tide stream near Flushing is a parabolic plate-girder draw-bridge swinging on a pivot pier at center. There are several bays of pile bridge at each end, in fair condition. This swing-bridge is too light for present equipment, and a plate-girder draw is to be substituted. A cutting near Murray Hill has slopes sliding in and a cobble-stone retaining wall which is broken. It is not at present dangerous, but it would be better if the cut was cleaned out and wall relaid. The Douglaston draw-bridge and trestle, about 1,800 feet in length, is in fair condition. Originally the bays were about eleven feet. As the bents grew old an intermediate bent has been driven, retaining the old work for such support as it could give. Possibly considerable of the bridge could be filled if done gradually. The superstructure to Whitestone junction is in good order. East of that point it is in ordinary adjustment and maintenance of sleepers. The fencing is very well kept up, and roadway orderly. All the station buildings are in good condition, their platforms strongly maintained, and waiting-rooms neat and clean. Murray Hill is a newly located station. Several highway crossings on this and other branches have electric gongs, seventeen of which are now in use.

*Whitestone Junction to Whitestone Landing,*

Single-track road about five miles in length. Some of the trestle openings on the Flushing meadows have a little too old piling. At Flushing, crossing a tide stream, is a parabolic plate-girder through, resting on a trestle substructure. It is a lift draw much too light for present service. Also, the timber substructures and approaches are not as firm as desirable. It was stated when last inspected, that a renewal of entire structure was contemplated at an early day. Assurance is now given that a plate-girder and material for rebuilding the substructures have been ordered. The pile trestle east of Flushing has been filled excepting ten bays left for waterway. The remaining trestles are in good condition. Between Whitestone and Whitestone Landing, one mile, the alignment of road is sharply curved. Inside T rail guards and rail braces are used. The superstructure is in much the same condition as on the Great Neck branch. All of the depots are in good order and neatly kept. At Whitestone Landing there is a suitable frame passenger depot, a two-stall engine-house, turn-table, sidings and extensive water front on the sound.

*Winfield Junction to Jamaica via Old Long Island Road,*

A single-track line about five miles long. The sleepers are in fair condition. Many were noticed as deeply cut in by base of rails, but as a whole they are fairly maintained. Larger amount of renewals will soon be necessary on the entire Long Island system. It was noticed that the ties lately removed from road-bed show the effect of the dry, sharp, sand ballast. For this reason, surface appearances are deceiving, and time in use should largely govern the amount of renewals. About 150,000 sleepers have been renewed each year for three seasons. Yellow pine is now used, and when they are entirely substituted, an average of seven or eight years may be allowable for their safe life. Experience, however, is the only way to determine this matter. The average life as reported by the company is placed at five years. In the report to your Honorable Board in 1889, an average of six years was given, which would require each year not less than 215,000 sleepers per year or 65,000 more than is now used.

The iron bridges are in good order, excepting the want of a good coating of paint. At Jamaica a considerable enlargement of yard tracks is in progress; a new engine-house is to be built and the passenger depot moved to a point between the four tracks of the main line.

*Atlantic Avenue Division,*

From Jamaica to Flatbush avenue depot in Brooklyn. It is a double-track road through Atlantic avenue. At Morris Park two large brick shops have been erected for the repair of locomotives and cars. They are

equipped with the machinery from the discontinued shops at Long Island City, and such new tools as were required. There is a traveling crane the entire length of the engine shop, and a transfer table between both buildings, forming in all a thoroughly equipped plant. There are ample grounds for future enlargement.

Seventy-pounds per yard new steel rails are being laid along the avenue between East New York and Flatbush avenue depot, at same time renewing the sleepers as necessary. The station buildings and corner platforms and gates along the thickly populated portion of the avenue are the same as heretofore reported. The Flatbush avenue terminal is in same cramped condition. An elevated road is projected which if carried to completion will entirely change the Brooklyn terminal arrangements, possibly the extending of the road to the bridge and south ferry. All the depots are very neatly kept and platforms well maintained.

#### *Manhattan Beach Division,*

From Fresh Pond junction to Manhattan Beach and from Manhattan Beach junction to Bay Ridge, in all sixteen and one-half miles of double-track road. The pile bridge over Coney Island creek, about 800 feet in length, has been almost entirely rebuilt since the previous inspection. The superstructure is in fair condition and the renewing of ties is in progress. Generally the road is well fenced; some repairing, however, is necessary. There is an iron through lattice over the Prospect Park railroad; it is in good order. The superstructure is in about the same condition as the other portion of this division and in like proportion will be renewed in its sleepers. The Atlantic Avenue division is crossed at grade and a connection is made with that division at East New York. Utica avenue is the next northerly parallel street in which is an elevated railroad. Trains now stop under this elevated road to receive and discharge passengers. Six hundred feet north of Utica avenue is another street crossing, the grade of which has recently been established in a manner to compel a rise in the grade of railroad three feet per 100 for the 600 feet. It then descends to the north at a less rate of grade until the old road-bed is intersected. In the compulsory forming of this steep hill in grade of railroad much damage to its operating has been done. A helping engine will be required to overcome the hill when the usual heavy trains of summer are run. Open excursion cars are used, and exceeding care will be required at this critical point to avoid accident. The depots at Manhattan Beach and East New York are the same as previously reported. At Manhattan Beach the ocean has made considerable inroads to the grounds fronting the hotel.

#### *Long Island City to Jamaica (Main Line),*

A double-track road ten miles in length. Nearly all of both tracks are now laid with seventy-pounds per yard steel rail. The sleepers are in very good life and track well adjusted. The draw-bridge and trestle approaches over Dutch Kill are in good condition, except a renewal in part of floor ties is needed. Trestle No. 49 has been filled. Over a highway is a new eighty-five-foot span through Pratt truss of heavy construction. The substructures have been rebuilt. The depots are frame buildings, some of which have been renovated and repaired. They are all very cleanly kept and platforms strongly maintained.

#### *Jamaica to Sag Harbor.*

Between Jamaica and Rockaway junction, one and one-half miles, two additional tracks are being laid, which continues the double tracks of Main and Southside division from Jamaica cross switches. These additional tracks will greatly aid the movement of trains. Each of the openings between Jamaica and Sag Harbor, a distance of about ninety miles were examined. At a number of single-bay trestles or pile bridges cast iron pipes have been inserted and openings in road-bed filled. A number of new pile bridges have been substituted for old work. East of Broc Haven was a long pile bridge, 900 feet of which has been filled. There are yet quite a number of timber box culverts in the road-bed, some of the

under banks fifteen feet high. Iron pipes are substituted as fast as these timber boxes become too old. Over canal east of Good Ground is an iron viaduct, consisting of plate girder and a through low riveted lattice truss over prism of canal. The whole is on iron bents resting on pedestals of masonry. A few of the copings of these pedestals are broken. Generally the openings are in excellent life of timber and ample in volume. East of Babylon the track, which is single from Pearsall's to Sag Harbor, eighty-one miles, is in very good adjustment. Most of the sleeper renewals has been made and road-bed neatly cleaned of old material. During the past year the entire rails, where not before laid alternate joints, have been changed to that position. Each of the passenger stations was inspected and all found in exceedingly neat and orderly condition. They are well furnished and have good platforms. At Amityville a new brick depot and a freight-house have been erected. At Oakdale a brick passenger station is in course of construction.

*Eastport Junction to Manor,*

A single track road, seven miles in length, connecting at the easterly end of Long Island with the main line and south side divisions. There are no openings in road-bed; the superstructure is in good condition and few trains are run over it.

*Greenport to Rockaway Junction (Main Line),*

A single-track road from Greenport to Laurel Park, near Rockaway junction, about eighty-three miles in length. The superstructure is in very good condition the entire length. In the bridging a number of betterments have been made. West of Southold is a new I-beam deck bridge over a highway. East of Mineola is a like structure rebuilt in same manner. At other points repairs of masonry and a renewal of wood girders have been made. There are a number of structures having fractured abutments, but these are strongly bent and perfectly safe. Each of the station buildings were examined and without exception were found in excellent condition and neatly kept.

*Port Jefferson Branch,*

From Hicksville to Port Jefferson, a single-track road thirty-two and one-half miles in length. East of Syosset is an under-highway crossing having good rubble masonry abutments. I beams are at hand to replace the wooden girders. East of this is a similar structure, with I beam girders. The abutments at top have moved inward, but are strongly shored up with bents upon which the I beams rest. Between Northport and Port Jefferson are six Fink truss, iron, viaducts from 100 to 200 and more feet in length and from twenty to forty feet in height. Some of these are on curves but the structures are tangents. At center of these one rail is over middle of floor at center of bridge. In such instances the floor beams, on which the rail directly rests, are too shallow and occasionally were noticed as somewhat decayed. It is suggested that renewals be made, using a larger floor beam. Other than this these structures are in good order. The ironwork is being painted and approaches from road-bed have been strengthened. Most of this branch is inclosed with fences and the roadway and track are in fair condition and adjustment. The depots have not been changed since the previous inspection. They are all well maintained and neatly kept.

*Glen Cove Branch,*

single-track road from Mineola to Oyster Bay, fourteen and one-half miles long, four and one-half of which, to Oyster Bay, is of quite recent construction. The older portion of this branch is in ordinary line and the surface of track and sleepers are in very good condition. The roadway is good and in good order. The newly constructed road is thoroughly built. It has heavy masonry structures of an excellent character of work. Each culverts are built at all inclosed waterways. Over a highway is an

iron viaduct, and short span openings have I beam girders. All openings have strong floors. The grades are quite heavy and alignment mostly curved. The new track is strongly tied, well ballasted and in fine adjustment. At Oyster Bay there is a brick depot, freight-house and a four-stall engine-house, with iron turn-table. The depots on the old portion of branch are the same as before reported. They are all in good condition.

#### *Long Beach Division,*

A single-track road from Pearsall's to Long Beach, a distance of six miles, and from Long Beach to Point Lookout, about four miles. This last piece of road is crudely constructed along the sand ridge bordering the ocean. The equipment used is light, and the entire branch is only operated during the summer and early fall months. There are six pile bridges, aggregating one and one-half miles in length. The bays are eleven feet each, and have two eight by sixteen inches yellow pine stringers under each rail. There are two lift-draws of twenty-foot spans, having wooden girders trussed with rods, and one Howe truss, low, through, swing-bridge of forty-foot span. Considerable repairs have been made to these pile structures since they were built, which was in 1880. A large number of stringers have been renewed, and more work of like character is proposed this year, which the appearance of some of the stringers shows to be necessary. A new flooring of bridge ties has been laid on all of them, and some reinforcement of piling has been done. The sleepers are in fair life on road-bed and track in very good adjustment. The work of preparing the branch for the summer's business was in progress.

#### *New York and Rockaway Beach Division,*

A double-track road from Glendale junction to Rockaway Point, a distance of ten and one-third miles. There are about five miles of pile and trestle bridging. Between the Jamaica plank-road crossing and Ozone Park is a trestle bridge, three-fifths of a mile in length. The bays are fifteen feet clear spans, and have three-chord strands of five by fourteen inches section under each rail, as originally constructed. An additional strand, seven by fourteen inches, has been placed under the outside rails of each track, and a number of the bays under the inside rails have an additional strand of like section. It is suggested that the remainder of bays be reinforced in like manner at an early day. The bents have been repaired or renewed where necessary. Crossing Jamaica bay is a double-track pile-bridge, about four and one-half miles in length. In many bents the original piling settled; at some of them unevenly. The sea-worm (Teredo) has made great havoc in the deep water or channels. These defects have been thoroughly met by driving creosoted piles, averaging in number about six in each bent. On the flats which are exposed at low water, the defective piling has been reinforced. As a whole the piling and caps are in very good condition. There are 1,716 bays in this structure, 400 of which are fifteen-foot spans, the remainder are eleven feet in width. On the longer spans three strands of yellow-pine timber, five by fourteen inches section, were originally laid under each rail. The shorter spans had two strands of like timber and section. These strands are double length and break-joints on alternate caps, where is two-strand work. The three-chord work break-joints over at least one cap in each bay. Under the outside rail of each track, with the exception of two or three bays, an additional stringer, seven by fourteen inches section, has been laid. The strands under the inside rails have not been to any extent reinforced by additional girders, but in considerable amount a new seven by fourteen inches stringer has taken the place of a five by fourteen strand removed. In packing the stringer, originally a wooden block was used between the strands at caps and in the center of bays. At these points, decay has been rapid, and a revealed where stringers have been taken out, seriously impaired the strength. Near the northerly end of bridge, in an eleven-foot bay, the stringers under the inside rail were found decayed about three-quarters of one inch in depth at center of bay where in juxtaposition with the wooden packing block. The size of original stringers, two five by fourteen inches

section, must be conceded as much less than used in general practice. To reduce these one inch each at center of bays is certainly beyond safety. Where three-strand work is used, in one instance, as shown when taken out and tested by your inspector, it was found entirely rotted through, a little sound timber being left at top and bottom of the chord. Previously, there had been placed an additional strand at same bay, but quite possibly, for a time at least, two strands were all that upheld the weight imposed. It is impossible to tell how far the decay at packing blocks has entered the stringers, except by boring or opening up the chords. The ties are throughs, extending under both tracks. They are six by eight inches section, and spaced eight inches apart. Generally, they are more or less spike-cut by the frequent relining of track. No dependence can or should be if in best condition, placed on the ties to uphold equipment.

A very careful examination was made of the entire bridge, and it is suggested that while work is now in progress to reinforce the inside rail stringers, a considerable of which has already been done, yet the entire completion of this reinforcement is so necessary for absolute safety, that a larger force be employed and every effort made to complete this important work at the earliest possible moment. Bolsters or corbels are used under stringers of spans, fifteen feet wide, but these, if in perfectly sound condition, would not avail much where the strands are decayed at center of bays. It was found that about 950 stringers of double length would complete the renewal of the inside girders, or at least reinforce them. Trains run quite frequently and there is much difficulty in getting in the new stringers, owing to the ties being throughs. Many of the old strands are considerably sap-rotten; eight per cent of sectional area were often noted as thus affected. The motive power has 28,000 pounds on each pair of drivers, and trains are run about thirty miles per hour. It would be well to reduce this speed one-half at least, until the entire reinforcement is completed. Your Inspector has always considered the section of these stringers as too small, and yet if in perfect condition they will carry the weight imposed, leaving, however, a very small margin for safety. On main line of Long Island road the standard section for stringers to span eleven feet is fully fifty per cent larger than on this bridge, and weight on drivers not materially more. Large allowances have to be made for imperfect timber, knots, broken or irregular grain and the impact of train movement, all of which are matters of judgment. The iron draw-bridges in this bridge or trestle work, are in fair condition, but the wooden track stringers spanning eleven feet between needle beams require the same attention as on other like spans. The bridge was built in 1879 and 1880. The roadway, superstructure and depots of this branch are in fair condition; a better adjusted track, however, is suggested at points in the road. The new road between Hammell's and Far Rockaway is in good order.

In general, the Long Island railroad is in about the same condition of superstructure as before reported. The sleepers, as a whole, are not as strong as when inspected in 1886. The rail where most worn and most used has been relaid. The substituting of iron for wooden girders, the rebuilding of wooden and iron structures, rebuilding and repair of depots and the betterment of equipment, has been quite marked since the inspection referred to. The business of the road has grown immensely and is constantly calling for increased volume and speed of trains. Endeavor appears to be made to keep pace with this increase by a more thorough maintenance of way and supply of equipment, as a whole, unless possibly the superstructure be excepted; this has been done.

#### NEWBURGH, DUTCHESS AND CONNECTICUT RAILROAD,

A single track road, about fifty-nine miles in length, between Dutchess junction, on the Hudson river, and the Connecticut State line, near Millerton. The track is laid with steel rails for forty-seven miles, an addition of about fifteen miles since inspection of 1888. The balance of rail is iron, all on the easterly end of the road. It is in fair condition as a whole, but many rails are considerably worn, and a further relaying of steel is suggested. Between Wicopee and Hopewell junction, a distance of eleven miles, the New York and New England road have a trackage, and a large

traffic is transported. The rail between these points is seventy-four pounds, and the remainder, sixty pounds per yard. The iron rail is fifty-six pounds per yard. All are point switches out of main track, except eight on the east end of the road. There has been a further ballasting of road-bed, the slopes of rock cuttings cleared of loose material, and wet cuttings drained with tile in each side ditch. The tile is laid below the frost line, and is said to effectually stop the heaving of track. Generally, the sleepers are in strong life. About 15,000 per year are used in renewals. The track adjustment is very good, excepting where the old iron rail is, and there it is fair. The fences are well kept up, and roadway quite neat. Each of the truss and trestle bridges and minor openings were examined. There are a few openings where abutments are in poor order, and should be relaid. The character of the masonry is mostly rubble work laid in cement. Of the broken masonry, there is the following: West of Billings is a six-foot span waterway, with masonry falling and shored up with timber. East of Shunpike is a ten-foot span waterway, twenty feet high. It has T-abutments constructed of local stone which is disintegrating, and one abutment leans inwardly. It is strongly supported with timber. West of Shekomeko is an under-farm crossing having broken masonry abutments. At Husted is a twelve-foot span under-farm crossing whose abutments lean inward. In all, there are about fifty-six minor openings, from six to twenty-two feet in width, having timber girders, most of which are yellow pine, and four of them have girder rods in addition. A few require new ties, and three of them new stringers. There is one opening of six-foot span which has the rail directly on stringers. The under highway crossing, twenty feet span referred to as defective in last report, has been rebuilt and a plate deck girder provided. There are two other plate deck girders of thirty and thirty-three feet spans. The truss bridges are all in good condition. Near Matteawan is a trestle of fifteen bays, forty feet high. A culvert is to be built and the trestle filled this season. West of Wicopee is a trestle of twenty bays, thirty feet high, built of yellow pine, and is in fair life. West of Hopewell are nine bays of pile bridge, of thirteen spans, having six piles to each bent, and is in good condition. West of Millbrook are fifteen bays of trestle, at which a culvert has been erected and the trestle is being filled. East of the same place is a trestle of forty bents and about forty feet high. It has masonry foundation for all bents and is in fair condition. East of Bangall are thirty bays of trestle, nineteen feet high, five of which are over a stream. The bays are nineteen feet wide, and have two, eight by sixteen inches section, yellow pine stringers on each side. It is suggested that an additional stringer be placed under each rail, otherwise the bridge is ample and in good life. The bents rest on masonry piers. These last two trestles will probably be retained. Each of the depots were examined and all found in good order and very neatly kept. As yet no depot has been erected at Stissing junction, in place of the one burned. At Dutchess junction a new frame engine house of seven stalls has been erected. Additional sidings have been laid and passenger depot is painted and well furnished. Additions have been made to the motive power and passenger equipment. Air brakes and steam heating are now in use. The depot at Fishkill village has been reconstructed and painted. The physical condition of this property shows a gradual improvement and it is now, as a whole, in good order. The defects noted will be remedied, and in a comparatively short time the road will have a strong permanent way.

#### NEW JERSEY AND NEW YORK RAILROAD.

There have been no changes in the outline of this property since the previous inspection of 1883. The main line in New York commences at the New Jersey State line and runs to Nanuet junction. From thence the Piermont branch of the Erie road is used two and a half miles to Spring Valley. From this point the main line extends to Garnerville, thence to Haverstraw, a total distance of fourteen and six-tenths miles. At Nanuet a branch runs to New city, four and three-tenths miles, and from Garnerville to Stony Point, one and one-tenth miles.

Between the State line and Nanuet junction, five and one-third miles, and between Garnerville and Haverstraw, two and three-tenths miles, the

road is laid with steel rails. The balance of the road is laid with iron, and both are of sixty pounds per yard weight. The sleepers between State line and Nanuet are not as a whole in very good life. New ones are distributed along the road. It was stated that 8,000 had been secured for New York, which, if placed in the track, will bring the general strength up to a more satisfactory point. The adjustment of track is good.

Between Spring Valley junction and Haverstraw the maintenance of permanent way is about the same as last reported. The iron rail is more worn, but is yet in fair condition. The sleepers are generally good, and the track in fair line and good surface, especially north of Miners' creek.

There are 125 tons of sixty-pound steel at Haverstraw to replace in part the old iron rail, the best of which, when removed, is to be used in repairs. The Pratt deck truss of one hundred-foot span over Miners' creek, and twenty-feet span plate deck girder adjoining are, with their substructures, in good condition. The suggestion for an inside T-rail guard around the approaching curves at each end and across the long span has been complied with. The plate girder over a highway, a little north of Miners' creek, is in good condition. A trestle bridge of three bays has recently been filled. Garnerville junction is where the newly built road to Haverstraw branches out of the old line. The old road extends still northerly one mile to Garnerville but was not examined. The new line referred to is in about the same condition as in 1888. The superstructure has been very well ballasted, lined and surfaced.

There is a seventy-foot span through lattice bridge, also a twenty-five-foot span double I-beam girder on the new road. At the first bridge the masonry is in good condition, but a recent freshet has torn away an abutment at the twenty-five foot span, and I-beams now rest on an oak bent. The abutment should be rebuilt. At Haverstraw a branch line to the deep water of the river has been built.

There is a new frame depot, with two good waiting-rooms well furnished, at Haverstraw. The usual terminal buildings have also been built.

Where adjoining lands are cultivated or pastured the fences are in very fair condition, otherwise there is little fencing on the road.

Between Nanuet junction and New City there has been little, if any, change. The iron rail is much worn and occasionally broken at joints. There is but one opening, and that a twelve-foot span, with two good yellow pine stringers strongly trussed.

The track is mostly in poor adjustment and sleepers in ordinary condition. The passenger stations are in very good order, cleanly and comfortable.

#### NEW YORK CENTRAL AND HUDSON RIVER RAILROAD.

##### *Mott Haven to Albany and Troy,*

A double-track road laid with eighty pounds per yard steel rail, between Mott Haven Junction and Albany, and from East Albany to Troy with sixty-five pounds steel. The heavier rail has thirty-six inch steel angle bars, secured with six bolts. Each rail has also several Bush interlocking bolts. The sleepers are in strong life, road-bed well ballasted and tracks carefully adjusted. A number of miles of road-bed, south of Garrisons, has been ballasted with broken stone, which work is still in progress. A third track, between Sing Sing and Spuyten Duyvil Junction, is being graded on the easterly side of present lines. The road is being straightened south of Sing Sing by the construction of a retaining wall in the river. A large number of openings in the road-bed, of fourteen feet and less spans, have been covered. The plan of this work is to use a solid iron cover, made of T-rails, or of I-beams, two and one-half feet between centers, covered with four-inch creosoted yellow pine plank. Gravel or broken stone is then used, the same as on the solid road-bed. At many minor openings cast-iron pipes, of thirty-six inches and less diameter, are used for the passage of water and the openings filled. Where this is done wing-walls and parapets of masonry are constructed at each end. Parapets are also laid where openings are covered with T-rails. Two objects are possibly gained by this method of forming a continuous road-bed—one is to obviate the danger of an opening, and the other to do away with the blocking between the bridge seats and under side of girders wherever



the road is rebalasted. The planking, treated as above, will probably last a long time; at all events, its renewal will not be a serious matter, and much less troublesome than to raise the bridge seats. It is probably the intention to complete the rebuilding, flooring or filling of all minor openings. Since the previous inspection the weight of motive power has been increased up to about ninety-seven tons for passenger engines and tenders in commission. This necessitated a general strengthening of bridges, which has been extensively done on the main line, and a large amount of new iron or steel bridge work erected. Nearly all the old structures have been reinforced in a practical manner; outside trusses have been doubled up, and new trusses constructed to supply the requisite strength. Floor systems have been strengthened and as a whole the truss bridging is in good condition. Nearly all metal work has been repainted with asphalt. Occasionally some defects were noticed, such as girders partly burned, or a bridge floor wanting new ties. The Howe through truss at Stockport, of four long spans, appears in fair condition and is the only wood truss on the Hudson River division. It is well covered and closely watched. Bridge 296, a fourteen feet span, has two girders of yellow pine, eight by fourteen inches section, under each rail, which are too light. A number of openings have poor masonry substructures, but they will probably be soon rebuilt and another season will see all such defects removed, if the same progress is made as during the past year. Bridge 347, a thirty-feet span iron girder, has a broken abutment and truss rests on a pile bent. Bridge 271, a forty feet span iron girder, has rather poor masonry. Bridge 248, about seventeen feet span, has three, seven by fourteen inches girders, which are rather light for present weight of engines. It has bents inside of the old abutments and the whole will probably soon be rebuilt. Bridge 153 has poor masonry abutments. North of Hudson are two forty-feet iron girders having broken masonry and pile bents placed inside on which the girders rest. Another iron girder of the same span has masonry in like condition. There are eleven trestle bridges, from four to forty-feet bays each, aggregating about 1,400 feet in length, many of which have masonry abutments. Generally these are in strong life of timber. Between East Albany and Troy there are no changes since the previous inspection. A few small openings require new masonry. Where stringers for one rail are laid across the wings of arch culverts, and the other rail is on a solid road-bed, a change of the line of track or the lengthening of culverts is suggested. In the freight yard at Troy are ten tracks over a stream, crossed by three spans of trussed wooden girders, of twenty-five feet each, resting partly on pile piers and partly on masonry. The entire bridge is newly built of yellow pine.

The Troy Union railroad, about two miles in length, has its double tracks laid with eighty pounds steel. The road is in good order, and has strong ties and well adjusted track.

At Castleton a new depot, possibly a private enterprise, has been erected. It has two fine waiting-rooms, suitably furnished. The stations at Scho-dack and Germantown have been renovated. At Dobb's Ferry and Irving-ton handsome and convenient Queen Anne stone depots have recently been built. At Tarrytown and Yonkers new modern design passenger stations are being built. They are all in striking contrast with those in use so many years.

#### *Albany to Buffalo,*

A four-track road, 296 miles in length.

One hundred miles of eighty pounds per yard steel rail has been laid in the west-bound passenger track since the inspection of 1888. It is not in continuity, but distributed among the several repair divisions at point where renewal was most needed. There are no wooden trusses, and comparatively few wooden girders, and these only at minor openings and cat-guard, which latter have been largely filled and slats substituted, especially between Syracuse and Buffalo. Counting the openings definite under each track, there are about 175 cattle-guards and waterways up twelve-feet span, which have timber girders. Many of these could be filled, but where retained iron girders would be preferable. There but one pile bridge, which is at Fairport, where the passenger track cross from Central-Hudson to the West Shore, to avoid the main

nance of two stations. The bridge is in poor condition, and a structure of stone and iron is suggested. Between Schenectady and Rome there is considerable poor masonry, most of which is at short openings. Many of these could be filled if iron pipe was provided for drainage. There are quite a large number of open culverts, three feet wide, averaging four feet deep, that could be thus dispensed with to advantage. The substructures of larger girder openings and of truss-bridges, are nearly all of strong work, in perfect order. The exception most noticeable is the east abutment under freight tracks at the flood-bridge of West Canada creek. It has stood many years, and no weakness appeared until the use of the heavy motive power began. The end of the truss is temporarily upheld by a cribbing of cross-ties. In many instances where the road-bed is newly ballasted, the girders have been raised, and timber blocking used to raise the bridge floor even with adjoining track. This blocking was often noted as crudely done, and in one instance, where a tie was used, the girder had moved eastward, leaving but a four-inch bearing on the west end support. The solid floor system adopted along the Hudson river would obviate such defects, and in other respects would be more safe. West of Utica are two waterways, one of ten spans, the other of five spans, of ten feet each, that have poor masonry piers, which should be rebuilt. West of Green's Corners are two separate openings of three spans, eight feet wide, and one span, same width, having poor masonry abutments. It is suggested that the broken and insufficient masonry between Schenectady and Syracuse be properly rebuilt at all points where openings are to be retained. Between Syracuse and Buffalo there has been a large number of substructures rebuilt, entirely or in part, and except the two easterly piers under the passenger tracks at the crossing of Seneca river, all the masonry is in good order, but there is considerable make-shift in the blocking up of girders where road-bed has been raised in reballasting. The trusses which were unable to sustain the increased weight of engines have been reinforced, as on the Hudson River division, and a number of new bridges erected. Over the Mohawk at Schenectady are several spans of deck-lattice. An entire new bridge has been built for the east-bound and the old trusses used in doubling up the spans under the west-bound passenger track. West of Fonda are two new spans of forty feet each plate girders, in the outside tracks, and the old lattice girders used to double up the trusses of the middle tracks. A sixteen-foot span plate girder, with its masonry substructures, are entirely new. West of Sprakers is a like renewal of a twenty feet opening. West of Fort Plain are three thirty-foot spans of through plate girder. The passenger tracks have new trusses and the old trusses used to reinforce those on the freight tracks. Over West Canada creek are eight sixty-foot spans of two-truss double-track through lattice. The passenger tracks have a new structure, and the old trusses were used to reinforce those on the freight tracks. Strong through floors are provided for all new structures. The bridge over the Mohawk, east of Utica, has been reinforced, but the floor is much in need of repair. Crossing Oriskany creek is a new three-truss through lattice, of seventy-foot span. It has a solid floor; i. e., the floor beams are U shape and connected at top. The whole is filled with gravel and track laid on it. The masonry is also new and very strong work. Over the Erie canal, east of Rome, is a double-track two-truss, of like construction in the freight tracks, and over the New York, Ontario and Western railroad, at Oneida, there are two tracks with solid floors. The floor system of the bridge over the Erie canal, west of Canastota, has been changed, doing away with the rail directly upon the track-stringer, and the trusses have been reinforced. The masonry piers at Seneca river, except those heretofore mentioned, are now in fair order. The pedestal stones under girders in freight tracks have been removed, and the piers coped full width with oak twelve inches square, bolted together. The object is greater elasticity and the holding of the piers together. Tracks one and two are to have a new floor; the other two tracks have floors, which are not in very good condition. A through lattice over the Erie canal, east of Clyde, has a new floor system and trusses reinforced. West of this, where was a short span of low through lattice, is now an arch culvert. West of Lyons, over Canandaigua outlet, is a through lattice which has a new floor system and reinforced trusses. The trusses over

Genesee river, the Erie canal, and streets adjoining in Rochester, have been reinforced and have new floors. One or two high pedestals in this elevated structure show signs of failure. West of Rochester the work of strengthening trusses and rebuilding masonry for the large bridges had been heretofore done. All the masonry at small openings has been relaid or repointed, and but few timber girders remain. More than three-fourths of the cattle-guards have been filled. Considerable rebalasting has been accomplished since the inspection of 1888, and west of Lyons more like work is needed. The superstructure of the passenger tracks is all strongly tied and well adjusted. The freight tracks are less thoroughly maintained, and in some portions of the road they are insufficient in strength of ties; although in much stronger average life than a few years ago. West of Rochester they appear in better condition, and more in keeping with the passenger tracks. Great care is taken with the fencing of the entire road, and scarcely a defect exists. The cross-fences at highways are neatly painted, and all grade crossings have warning signs. The road-bed is thoroughly ditched, and roadway, from fence to fence, very neatly kept. There are no changes of note in the passenger stations, except at Lyons, where a very satisfactory betterment has been made. Your Honorable Board will remember the condition of this transfer and local station as reported in 1888. There is now a fine brick passenger station, having one very large waiting-room, neatly furnished and comfortable in all respects. There are covered platforms, baggage and express rooms, offices and the like, making a complete and practical depot. Other stations have been painted and renovated, and all inspected were cleanly and comfortable. The depot and dwelling combined at Little Falls has two waiting rooms partly underground. They are dark, unsuitable rooms for passenger use. For so large a place, better and at least more tenable waiting rooms for the use of the public appears requisite. Gravel is being used instead of planking for walks alongside the tracks at nearly all stations except those in cities.

#### *Harlem Division,*

From Grand Central depot, New York, to Chatham, 127 miles. Between Mott Haven Junction and Williams Bridge, a distance of about five miles, the track has been depressed and a four-track road has been constructed, similar to that in Fourth avenue, New York, except that it is open its entire length. The tracks are in use, but portions of the retaining walls, or sides of the depression have yet to be completed and a few way stations adapted to the new grade. All the streets are carried over the tracks. The side walls are of excellent masonry, neatly coped, and at the top have strong iron railings. The over-street bridges are of iron, and the whole work is of the most substantial character. The road-bed is ballasted with broken stone, the same as in the Fourth avenue tunnel. The four tracks are laid with eighty-pounds per yard steel, and extend to the junction with the New York, New Haven and Hartford railroad at Woodlawn. From this point to White Plains, ten and one-half miles, the road is double track, and from thence to Chatham a single track road. North of Woodlawn Junction there is no particular change in the condition of the superstructure since the report of 1888. The rails are chiefly second-hand, taken from the Hudson river, and other divisions of the main line. North of Woodlawn a renewal with like kind of rails was being made in the west or south bound tracks, for about ten miles. At Woodlawn junction the tracks cross, and the road is operated left-handed to the Grand Central depot, the same as from Spuyten Duyvil junction on the Hudson River division. The sleepers on the entire road are in very good condition, and the track well adjusted. The line of ballast is regularly defined, and road-bed clean and uniform. The fences are well maintained, and the roadway tidily kept. There has been considerable truss and plate-girder bridging erected since 1888. The larger bridges have, with scarcely an exception, strong masonry substructures. Woodlawn junction are two spans of forty-six feet each, plate arch through girders, all in good order. North of Mount Vernon, where a Howe truss was recently burned, a new iron bridge is to be erected. The work of rebuilding the masonry was in progress. North of Scarsd

is a 100-foot span, two-truss double-track through, Post combination bridge. The timber in the truss appears in fair life, but the floor wants renewing. Bridge 62 is an arched plate-girder through, the floor of which is in poor condition and the ends of floor-ties should have a track-stringer under them. This omission was noticed in several similar spans. Bridge 66 is a low through Howe truss, said to be twenty years old; a new bridge is suggested, even though decayed timber was not visible. The abutments of nearly all the bridges and openings north of Woodlawn junction are built of coarsely dressed rubble masonry, generally laid in cement. Bridge 78 is a through Howe truss, 100-foot span, resting on bents; a new bridge is suggested, in view of the possible dislodgement of bents. Near Purdy's is a 100-foot span through pin bridge. The track-stringers are of wood in fair life. Bridge 87, over Croton river, consisting of several spans of pin and lattice trussing, is in fair order. Bridge 107, a sixty-foot pin-deck truss, has one pedestal broken, but is otherwise in good condition. Bridge 109, a deck Howe truss of fifty-foot span, covered, has the strands in lower chords apparently opening at their ends, and some too old timber; a new bridge is suggested. Bridge 113, consisting of two spans of deck Howe truss, covered, is on bents at first panel point, and timber shows age; a renewal of this structure is suggested. Bridge 114, which was similar, is now a plate-deck girder of about 116-feet clear span. The girders are nine feet deep, and this with bridge 115, a similar plate-girder of the same length, are the longest of their kind in the State. Bridge 117 is a through Howe truss. The lower chords show signs of failure, and repair or renewal is advised. At Millerton is a thirty-foot span deck plate girder, having a switch at one end. The outside rail of siding is outside of the bridge floor and is carried on a timber stringer. This stringer was broken, and a strut insufficiently secured was placed under it. Repair was at once ordered by Mr. Otis, the general roadmaster, who accompanied your inspector over the lines of the Central-Hudson Company. Bridge 132, a forty-foot span, pin deck truss for three tracks, is of new construction, including the abutments. South of Hillsdale is a new lattice deck bridge, of 100-foot span, where was a Howe truss in 1888. At Crarryville are two separate plate through girders, of recent construction, including the substructures. At Martindale is a forty-foot span deck Howe truss, closely covered. The water was very deep entirely between the abutments, and its condition was not ascertained. North of Ghent, where was a through Howe truss, is now a 100-foot span through lattice. When taken down the old timbers were found badly decayed. The bridge had always been covered, and the condition of its wood work disclosed by its removal causes apprehension that the old Howe bridges yet in the road may be in like decay, and partly with this in mind has their renewal been suggested. There is but one trestle bridge. It adjoins the two-span iron swing-draw over the Harlem river. Piles are at hand with which to build a new structure. There are about twenty plate-girders from fifteen to forty-foot span, each of which has good masonry abutments, and some are of new construction. There are about sixty-eight openings from four to eighteen-foot span, five of which have three bays, and all have wooden girders. Also sixty-five like openings from four to ten feet wide, have girders of rolled beams or railroad bars. These minor openings generally have fair masonry, but in a number of instances it is of ordinary character, occasionally broken and upheld with timbers. The wood girders are mostly in good life; a few should be renewed and others reinforced or enlarged. There has been considerable reballasting of superstructure, and the drainage of the road-bed is good, and the fences well kept up. There are no changes in the depots except along the newly pressed road. Melrose is a new depot, and others are being altered and located to conform to the lowered tracks.

#### *Mahopac Branch.*

There is one truss bridge on this branch, which is over Croton river, near Tolden's bridge. It is a deck Howe truss, about 120 feet span, and has a restle approach at easterly end, in bad order. The truss is also in poor condition, and a rigid examination of its physical condition is suggested.

There are a few short span openings which were omitted, as were also the few miles of road above the bridge.

*Green Island to Schenectady,*

A single track road, about twenty-one miles in length. During the past two years the road-bed between Green Island and Cohoes has been thoroughly rebalasted, resulting in a better adjusted track up the steep grade to the summit, between the Hudson and Mohawk valleys. The remainder of road-bed to Schenectady was rebalasted a few years ago. As a whole, the sleepers are in good life. In a number of places the rails show considerable wear, but nothing serious. The line and surface of track is workmanlike, road-bed neatly dressed and well drained, and fences, where maintained by the company, in good condition. There has been some change in the truss-bridging. Bridge 13, a thirty-foot span plate girder, has a new floor. Bridge 14, a sixty-foot span lattice deck, has reinforced trusses and floor system. An adjoining low through lattice has been treated in the same manner. Crossing a branch of the Albany Northern road is a new fifty-foot span plate girder through, and over the main line of the same road a new similar girder of thirty-six-foot span on new abutments. West of Niskayuna is a thirty-foot span lattice, which has doubled-up trusses on one side and a new truss on the other. Besides these, there are several lattice and plate-girder bridges, all in good order. Near Schenectady is a fifteen-foot span plate girder, the abutments of which have become broken, and the stone are disintegrating. The girders rest on bents inside the abutments. One minor opening has a twenty-four inch cast-iron pipe, and opening filled. Two or three others have been solidly covered with T-rails, a few have rebuilt abutments, and all are in very good order. A number could readily be filled, if pipe for drainage was provided. The depots are in good order and neatly kept. A flag station has a car body for a depot. Other than this they are good brick buildings.

*Syracuse to Brighton Junction via Auburn.*

This branch is the same as reported in 1888, except that some of the bridges and short openings in road-bed are in better condition and two new depots have been erected, but not all the then defective openings have received the attention which seemed desirable. The suggestions then made are renewed. The defects referred to are as follows: East of Seneca Falls is a two-span deck lattice truss and one span of through lattice in good order, except the masonry piers are broken and pile bents driven each side to uphold the girders. Between Phelps and Oak Corners is an under-farm crossing, over which is a plate deck girder, about sixteen-foot span, resting on bents. These bents are old and the abutments in very poor condition. Bridge 62, west of Clifton Springs, a ten-foot span waterway, has abutments about twelve feet in height, which are quite badly shattered and held in place with timber struts. Another similar opening west of Chapinville, and another short span near Fishers, are in about the same condition. An arch culvert east of Aurelius, has one end and parapet fallen and embankment over it has formed a steep slope which is suggestive of undermining the track. The rebuilding of the broken arch and parapet is necessary. West of this is an under-farm crossing similar to bridge 62, with abutments in very poor condition. There are a few other small openings where stronger masonry is desirable. At the crossing of Cayuga lake outlet, where was a quite old and poorly designed trestle of a number of spans, an entire new waterway has been constructed. There are now forty bays of strong pile trestle and ten spans of sixty feet each low lattice through trusses, resting on well-built masonry piers. The iron draw-bridge, of thirty-foot span at the channel, has new abutments. Bridge 54 has been changed from a lattice truss to a plate girder through. There are in all twenty-three plate girders, from eight to sixty feet spans each; three I-beam deck girders, from eight to twelve feet span, twenty-one minor openings and cattle guards with T-rail girders and thirty similar structures having girders of timber. About 110 cattle-guards have been filled in the past few years and slats substituted. It would not require a very large expenditure to rebuild the defective masonry and to substitute iron

for all the timber stringers. A lattice deck and through bridge near Canandaigua has been reinforced. Near this are four bays of trestle over a highway, in good condition, but a substitute of stone and iron would be better. No adverse criticism can be made of the superstructure, roadway and fences. They are in excellent order unless the worn condition of some of the steel rails which have mostly been in use on the main line. Near Brighton there has been relaying of track with new steel. At Camillus a practical frame depot has been erected, and comfortably furnished. The depots at Marcellus, Skaneateles, Waterloo, Geneva, Phelps, Fishers and Pittsford, have been newly painted and some of them renovated inside and newly furnished. At Canandaigua a new brick station of good design has been built a few rods east of the waiting-room, so long in use, under a hotel.

*Rochester to Buffalo via Suspension Bridge,*

From Niagara Falls junction with main line near Rochester, to Buffalo via Suspension Bridge, about 100 miles. There has been no change of moment on this division since the previous inspection except the erection of an unique passenger station at Lockport. Some defects then reported have been remedied, some still remain, and others developed. Nothing, however, has the appearance of immediate danger and the following defects are noted chiefly to quicken their removal, thus securing a more thorough permanent way, such as would obviate apprehension of danger, and as far as possible reliance upon the vigilance or judgment of employees. The inspection began at the junction with the main line near Rochester. Between Charlotte junction and Suspension Bridge there are thirty-eight small openings, from four to twelve feet wide spanned with wooden girders. Of these but few were seen which appeared out of good life or sufficient strength. Four have shattered masonry substructures. Twenty-three openings including cattle-guards, have railroad bars for girders, and twenty-eight cattle-guards have wood stringers; many of these are to be filled and slats substituted, as already done to a considerable extent. Three plate girders have new abutments. Two plate girders west of Lockport Junction have shattered masonry, and bents support girders. A number of like structures have newly laid abutments. Bridge 113, a lattice through, is being changed to a plate girder, and masonry rebuilt. Bridge 188, a lattice deck over a ravine near Lockport, has bents under it. A plate girder, west of Medina, is bent at the center. At Lockport, a double track deck lattice of three spans, and a through lattice adjoining are being reinforced in their web members and floor system. At Niagara Falls, a four truss low through lattice has been reinforced, and possibly, also, a number of other trusses between Niagara and Buffalo. The truss bridging on the entire division is in process of being painted with asphalt and oil. At Black Rock, over a street, is a through lattice, one abutment of which is shattered and the bridge bent at first panel point. Bridge 9, near Black Rock, has bents for abutments. Possibly this bridge is to be discontinued. Along Niagara river, in Buffalo, the trestles have been filled with stone, and a sea wall about 1,000 feet long has been laid. The maintenance of the superstructure is excellent throughout. Sleepers are in strong life, ditches well opened, fences well kept up and roadway tidy from fence to fence. All the passenger stations inspected were found neatly kept. The depot at Albion has been renovated and has neat surroundings. Eagle Harbor depot has been improved. Medina depot is not as well kept up as others of less importance. A small frame passenger station was being built at Lockport Junction in place of one lately burned. The outside of a number has been painted. North Tonawanda has been renovated inside. The new passenger station at Lockport is an imposing structure of stone and brick. It as a covered carriage-way entrance in the rear, beautifully carved, an arched entrance into a vestibule in front, and all the modern improvements inside. As a whole it is, as before stated, unique.

*Lockport Junction to North Tonawanda.*

Some improvement has been made in the physical condition of this branch in the past two years. It is a single-track road, laid with steel rails, in good condition, which were in former use on the main line.

Reballasting has been continued to some extent, the sleepers are in good condition and track very well adjusted. The roadway and fences are in good order. There are a few small openings which have poor masonry. Some of these are cattle-guards which it is the intention to fill up. One twelve-foot waterway has masonry badly shattered, the stringers are much decayed and are upheld by a cribbing of cross ties. It is suggested that the structure be speedily rebuilt to avoid the danger of fire. There are three plate deck girder openings, of ten and twelve feet width, and two bays of trestle at each opening. Bridge 128 consists of two thirty-foot spans of through Warren girders. Plate girders at hand are to be substituted. Cast iron pipes for eleven culverts are distributed. Hulls is the only local station. It is a small frame building, and has a comfortable and neatly kept waiting-room.

#### *North Tonawanda to Batavia,*

A single-track road about thirty-eight miles in length. It has a very limited traffic—there being but one mixed train each way per day—but the road is very well kept up. The sleepers are in fair life and, except for about two and a half miles, the rails are steel in fair condition, though some of them have been in use twenty-five years. The roadway and fences are as neatly kept up, as on the other parts of the Central system. Considerable reballasting has been done and the adjustment of track is good. Near East Pembroke is a forty-foot span plate deck girder, with strong abutments, which is a betterment since the former inspection. At North Tonawanda are five spans of about 100 feet each, covered through, and one forty-foot span low through Howe truss over the canal creek and highway. The long spans do not show failure. The short span is seriously affected with decay in one strand of lower chord. A new bridge is being constructed over the highway. The stone in the pier at east end of the bridge over the creek is in bad condition. Two piers have been removed and bents are used for support. The creek spans have been in use some time and its careful examination is suggested. Bridge 108, a lattice deck over a highway, is much in need of a new floor and paint on the iron work. Bridge 106, a lattice deck of two forty-foot spans, has shattered abutments, and iron work wants painting. There are sixteen pile and three single-span trestle bridges, from five to twenty-foot bays. They are about three years old, except two or three, which are older and require some repairing. There are six short openings with masonry abutments in good order, and twenty-two timber cattle-guards, many of which could be filled to advantage and slats substituted.

#### *Batavia to Canandaigua,*

A single-track road, about forty-two miles in length, all laid with steel rails in good condition and fastened with angle-bars at joints. Bridge 31 is a pile floodway at the crossing of low lands in Genesee valley. It has five bays eighteen feet wide. The piles are of large size, caps and stringers in good condition and a new floor. Bridge 32, in same location, is quite similar, and has eight bays. The stringers are somewhat old. One of these bridges will soon need to be renewed, and it would be much better if stone piers and iron girders were then used. Over the river is a through Howe truss, covered, about 190-foot span, of which a special report was recently made. It is in fair order. Bridge 29, a pile floodway in the same valley, is similar to the former. It has twenty-one bays, and is in fair life of timber. East of Honeoye Falls is a covered through McColium truss bridge of two 100-foot spans, in strong life. The roof needs repair and the floor, new cross-ties. Bridge 52, formerly a deck Howe truss, is now two spans of plate-girder deck. The bridge seats were not raised, and bents of yellow pine are used to overcome the difference in height between the old wood truss and new iron girders. Bridges 44 and 45 each consists of six spans, twenty feet wide, plate deck girders, in good order except as to their floors, which need some repairs. Bridge 34 is a through lattice over the Western New York and Pennsylvania railroad. It is in good order. Bridge 7, over Mud creek, formerly a Howe truss, is now three spans, of plate deck girders, on timber bent piers, and

good abutments. Bridge 1 is a yellow pine trestle, newly built, of four bays, over a street in Canandaigua. There are three minor openings of ten to eighteen feet spans, having wooden girders; the longer span has truss rods in addition. There are five other plate girders, from eleven to thirty-foot spans, all having good floors and strong masonry supports, also fifty-one waterways, under farm-crossings, and cattle-guards, each of which is spanned with railroad bars, except one which has rolled beams. There is not a shattered or broken substructure, or a defective opening of any kind on this division, other than the stringers in the pile bridge referred to, which is not serious, and a few spacing ribbons. During the past few years and chiefly since the inspection of 1888, the entire masonry has been rebuilt or thoroughly repaired. Forty-six cattle-guards have been filled and a good protection of slats provided. The remaining cattle-guards have new masonry and railroad bar girders. With a little effort, every piece of wood in the permanent way, below the sleepers, could be removed, except the wooden truss bridges, which are of too much value to discard. Of the superstructure, no adverse criticism can reasonably be made. The sleepers are strong, road-bed well ballasted, and both largely renewed since previous inspection. The drainage is well cared for, and adjustment of track workmanlike. Especial care seems to be taken to keep the fences strong and roadway orderly. A new frame depot has been built at Le Roy. It has a large waiting-room comfortably furnished. Caledonia is very neatly kept. The depots at East Rush, Miller's Corners, West Bloomfield, Rush and East Bloomfield have been thoroughly renovated and newly painted.

*De Witt to Geddes,*

Known as the Syracuse Junction railroad, double track, eight and one-quarter miles long for freight traffic, between De Witt and West Syracuse, where the main line is again followed. It is laid with steel rails, has strong ties, is fairly ballasted mostly with cinders, and track well adjusted. Wire fences strongly inclose the roadway. There are four plate girders from twenty to forty-foot spans, one of which is new. Eleven minor openings have timber girders and two have railroad bars. A viaduct over a street, of four bays, has iron piers and plate girders. There are three lattice bridges from forty to 100 feet span. The masonry at all openings is in good order and bridge floors strong.

*West Shore Division,*

From New Jersey State line to Buffalo, a distance of 406 miles, 331 of which is double tracked; also, a single track branch from Coeymans Junction to Albany, eleven and a half miles, and a lately constructed branch, one and a half miles in length, between Valley Cottage and Rockland lake. In making this inspection very little attention was given to iron structures except their floors and to note if the iron was corroding. Each of the timber structures was inspected. They are as follows: South of Stony Point are twenty bays of pile trestle, 250 feet in length, to be filled. North of the same point are thirty-nine bays of pile trestle, 487 feet in length, across a deep soft marsh bordering on the Hudson river. It is in fair condition. Doubts are entertained as to the possibility of filling. North of this are thirty bays of pile bridge which it is practicable to fill. The bridge is in just fair life and its filling, instead of renewal, is suggested. The piles of these bridges are spruce, and the caps, stringers and ties are yellow pine. South of Tompkins' Cove are twenty-five bays of pile bridge in deep water. A part renewal of the plank bracing, piles and ties appears necessary. To fill would be far better. Bridge 40 is thirty bays of pile bridge to be filled this year. It was stated that 4,420 lineal feet of pile and trestle work had been filled in the past two years between State line and Albany. Bridge 41 has thirty-five bays of pile trestle, in fair life. North of this are eight bays of trestle in same condition. A twelve-feet span cattle-pass has pile bents and plank lagging all in good order. North of this are eighteen bays of pile bridge which could be filled, in part. North of Jones' Point are forty bays of pile bridge which could in part be filled. It is not in strong life, and it were better filled than renewed. South of Iona



island are 1,600 lineal feet of pile trestle. The caps and stringers appear in fair life. The piles are considerably decayed, a number seriously so; a few have been spliced with timber. The stringers are only in medium life. It crosses a deep strata of mud or silt, said to be impracticable to fill. The rebuilding of this trestle, or its filling if possible, is suggested as a necessity. North of Iona island are two bays of trestle, then a thirty-eight-foot swing draw, followed by twenty-two bays of pile bridge, then thirty-two bays of trestle, and lastly, seven bays of pile bridge. The piling is much decayed, and its renewal, or cutting down to the surface of the water and a trestle placed thereon, is necessary for greater safety. Masonry abutments at the draw, and the filling of the trestle work, would be a far better remedy for the defect. At Popolopen creek are thirty-seven bays of pile trestle renewed this year. A thirty-seven-foot swing draw is over the channel. There are six bays of pile bridging at the north end which it is suggested be renewed or filled. North of Fort Montgomery are thirty bays of pile trestle, which have settled more or less, and a mattress of timber has been laid on surface of the swamp, upon which struts are set for additional support. Pontooning is the name given to such temporary expedients. The mud is said to be very deep. It is quite possible that larger piles properly driven would not settle. It is a difficult problem perhaps, but no worse than one solved north of Poughkeepsie on the Hudson River division. Between Cornwall Landing and Newburgh are a number of pile bridges. The first is over Moodna creek. It consists of twenty-seven bays of pile trestle in poor condition and it is suggested that it be rebuilt at an early day. North of this are three separate pile bridges of four bays each in poor order. Another of the same kind is partly filled, another is being rebuilt and still another under negotiation to be filled. The piles are all eight or more years old. Some of the bents have blocking under caps, or rather a strut with its lower end resting on a platform in the swamp. Many piles are reinforced with timbers bolted to them. North of Newburgh are eighty bays of pile bridge which is being filled. A timber bridge north of Clark's dock 3,840 feet in length is nearly filled up except a few bays at north end. North of this are twenty-five bays of pile bridge which requires considerable new piling. It would be much better to fill it. Bridge 93 has the inside track filled. It began to slide with the newly formed bank into the river, and was strongly anchored to the face of the rock. Bridge 94 is a pile trestle 400 feet long. It has new intermediate bents where some of the piling has settled, and where not settled they are to be cut off at the surface of water and trestles built upon it. It is now temporarily cribbed. Bridge 95, 300 feet in length has new oak pile bents. An attempt to fill it was unsuccessful. Bridge 125, a yellow pine trestle on pile foundations, 280 feet in length, and twenty feet high is all in fair life of timber. Bridge 142 is a thirty-two feet span, plate through girder, then an eighty-five feet span-deck Howe truss, then 460 feet of yellow pine trestle and about eighty feet extreme height. The trestle has a foundation of stone piers and the deck bridge masonry abutments. The whole is in very good condition. South of Coeymans Junction are four bays of yellow pine trestle on masonry foundations, in fair life of timber. It was stated that it would be filled another year. West of south Schenectady are sixteen bays of yellow pine trestle about forty feet in extreme height. The timber is in medium life. West of this are two separate yellow pine trestles, of three bays each in like condition. West of Indian Castle are three bays of pile bridge in poor life. Bridge 311 at Mohawk, is a yellow pine trestle about 1,100 feet long and twenty feet high, on pile foundations. There are two short spans of King trusses over highways. The bridge crosses on a curve, a basin of the Erie canal, and objection to filling is made that an embankment would occupy space needed for the storage of water. The piles are of soft wood, but for most the year are under water. The trestle is yet in good life. West of Mohawk are three bays of yellow pine trestle. The stringers and bents are fair condition. The bank approach at the westerly end is too narrow. West of Canastota is a similar trestle of new construction in yellow pine. The long trestle over the salt vats at Syracuse has recently been filled. West of Port Byron are two separate trestles of three bays each, lately repaired. At the west end of Seneca river bridge is a pile and trestle work across the marshes, about 1,600 feet in length, in fair condition.

West of Clyde are twenty bays of pile bridge, some of which, owing to the settlement of piles, are in poor order. West of this are three bays of new trestle bridge on pile foundations. Another like trestle has been filled, a thirty-six inch pipe being used as a culvert for passage of water. East of Lyons is a trestle of six bays, being rebuilt. West of Lyons are four bays of new pile bridge and three bays of trestle partially repaired. A new trestle or an opening with masonry abutments and iron girders, is suggested. West of Fairport are three bays of pile bridge in medium condition. West of Pittsford are five bays of yellow pine trestle in fair order. West of this is a pile opening of fourteen-feet span in fair life. East of Genesee river are sixteen bays of low pile flood bridge in medium life of timber. West of the same is a similar flood bridge in fair order. West of the under-crossing of the Buffalo, Rochester and Pittsburg railroad is a trestle bridge on pile foundations, which is much decayed. Piles are driven for a new trestle. West of this is a similar structure which is being renewed. West of Byron is a structure of the same kind which has been reinforced. Bridge 569 consists of six bays of yellow pine trestle in good condition. A pipe culvert has been placed in the opening of bridge 579 and opening filled. At Buffalo, a trestle 2,000 feet long is partly filled, and the whole is to be this season. The trestle is much decayed. The pile bridge at West Shore junction, in Buffalo, is also to be filled this year.

The following timber structures are on the branch between Coeymans junction and West Shore junction, south of Albany: South of Selkirk is a yellow pine trestle 660 feet in length, and about eighty feet high. In it is a lattice deck over Coeymans creek 112-feet span, on iron bent abutments, resting on masonry pedestals. The trestle work is in fair life, but trains move slowly over it. It is suggested that the opening be filled, or an iron viaduct supersede the wooden trestle. North of Selkirk is a new pile bridge of four bays. South of Albany are three separate pile bridges, newly built. One of these has ten, another five and the third, three bays.

The foregoing enumerates all the wooden structures in the permanent way of the West Shore road in New York, which probably aggregates five and three-tenths miles. There are 260 minor openings from three to eighteen feet wide, spanned by rolled beams, 205 spans of plate girder from twenty to fifty-feet span each, and 132 spans of pin lattice or Warren truss, of best construction, from forty-five to 228 feet each, the aggregate being about five miles. All these structures have an excellent character of masonry abutments and piers, and not one of them is broken or shattered. All the iron bridges and openings have good floors except the following: South of Nyack, an eighty-feet span needs new floor. North of West Nyack is a plate girder in like condition. Bridge over Irondequoit creek is a three truss lattice deck, 450 feet in length, on iron towers. The floor beams are eight by fourteen inches section, and are too light for weight imposed on the inside rail. It is suggested that larger floor beams be used, and that all fractured floor beams be renewed. There are a number of these structures which require a renewal of bridge ties and repainting. The superstructure is in good condition except that in many places the sleepers are too old. The inspection of this division was made rather too early in the season for general repairs. From Tappan, westerly, a number of miles of sixty-seven pounds per yard steel rail has been laid in both tracks. Near Little Falls are five miles of new steel recently laid in the north track. During the season of 1889, 200,000 sleepers were renewed. It is stated that 250,000 would be replaced this year, which would be at the rate of an entire renewal in five years. But this volume of new ties has but recently been attained. The road was all completed about the same time, possibly an interval of one season, as between the sections south and west of Coeymans, making an average of about seven and a half years. The different kinds of timber would not probably average eight years of useful life. Hence for the next two years, at least, the number of new ties required will naturally exceed the amount used this season. The sleepers, as a whole, were not in as strong life as desirable, and it is suggested that all ties should be perfectly competent to hold the track in gauge, a point which has been attained on the main lines of the Central Hudson Com-

pany, at least since the formation of the Railroad Commission in 1883. The roadway and fences appear well cared for. Considerable reballasting has been done in the past two years, but more is necessary on several portions of the line. The track adjustment is good generally, and at points exceedingly workmanlike. No particular examination of depots was made, except to note condition of platforms and surroundings. Some were carefully inspected, but nothing of importance noticed. As a whole, they are nicely kept and in good order. At West Park a new stone Queen Anne depot is being erected. At Highlands a new frame passenger station has been built. It has covered platforms, and one large waiting-room well furnished. A few of the local passenger buildings have been painted, otherwise they remain as before reported.

#### NEW YORK, LAKE ERIE AND WESTERN RAILROAD.

- A careful examination was made of the main lines and branches operated by this company. In all there are about 887 miles of road, 352 of which, between New Jersey State line and Buffalo, are double tracked.

##### *Eastern Division,*

From New Jersey State line to Port Jervis, fifty-six and one-half miles, mostly laid with new steel rails of seventy-four pounds per yard weight. The sleepers are in strong life and both tracks well adjusted. The reballasting of road-bed with broken stone, which has been completed from Jersey City to a point a little west of Sufferns, and which was for a time discontinued, has been resumed with energy, and in a short time this entire division will have a deep broken stone bed for its sleepers. There are but four openings having wooden stringers; three of them are cattle passes and are to be changed to iron stringers. A twenty-foot span under highway crossing, has three, eight by sixteen inches wood girders. A plate girder will be substituted this season. We found one of these cattle passes on fire and the stringers so nearly burned off as to make it dangerous for a train to cross. There was one due in a few moments, and had not we reached the spot in time disaster would no doubt have resulted. This is a clear illustration often occurring, and common to all roads, of a danger that always exists in wooden structures, and is a forcible argument for the removal of all such material from openings in the permanent way of the railroads in this State. A number of new bridges have been erected and others newly floored since the previous inspection. Bridge 18 east of Newburgh Junction, a twenty-five foot opening, has a new plate deck girder. Bridge 20 is a plate deck girder, of sixty-six feet span, and its masonry substructures are of new construction. East of Smithfield are two recently built plate girders of twenty-five feet spans. West of Oxford is a new short span, with iron in place of wood girders. East of Graycourt, in a cutting, abutments have been built to carry a highway over the tracks, thus avoiding two grade crossings. West of Chester an iron girder has taken the place of wood. West of Goshen is a twenty feet span, having too light beams; a plate girder is at hand to go in. West of Turner's a change in the road-bed is being made, to remove or at least lessen a sharp curve. No changes have been made in the passenger stations; they were all found in good condition and neatly kept. The absolute block system has been extended over the entire division.

##### *Delaware Division,*

About eighty-five miles in this State. There are but eight small openings, which are from six to twelve feet wide. These have iron girders and, all but one, good masonry substructures. The exception has been for support of girders, and stone were at hand of which masonry abutments are to be built this season. For many continuous miles there are no small openings, all having been covered and road-bed formed over them. There are no wooden girders or trusses on the division. All masonry is in good condition. In a number of instances the iron-work needs repainting. Bridges 11 and 12, near Cochection, are new plate girders. Over east branch of the Delaware river, near Hancock, are two

spans of 200 feet each, double track, two truss pin bridges, completing the independent double tracking, where they were formerly interlaced. All of the bridge floors are in good life. A number have been renewed since the previous inspection. The tracks are of seventy-six pounds steel, ninety miles having been laid this year. The renewal of sleepers was completed for this season and all are in strong life. Much of the road-bed is ballasted with broken stone and like work is still in progress. The alignment of this division is largely curved and the adjustment of track is exceedingly workmanlike. The drainage is fully developed, road-bed neatly formed and roadway tidily kept. All cattle-guards are of the slat design, cross fences at highways whitewashed and warningsigns in place. Each of the depots was inspected and found in good order and cleanly. A large brick passenger station in a new location has been erected at Port Jervis. It has one large waiting-room, lavatory, etc., all well-furnished and steam-heated. Nearly all the stations are embellished with lawns and flowers. The depot at Narrowsburgh has been thoroughly renovated and at Callicoon a similar work is in progress.

#### *Susquehanna Division,*

From a monument in Pennsylvania State line east of Kirkwood, to Hornellsville, a distance of about 129 miles in New York, chiefly laid with seventy-four pounds steel rail. This season, the Erie main line will be laid entirely with seventy-four pounds steel east of Salamanca, except between Owego and Great Bend, thirty-six miles. There are but eight openings having timber girders. They are from four to eight feet wide. South of Wellsburgh are three separate waterways of two ten-foot spans each, having rolled beam girders and oak bent supports. Masonry abutments are being constructed at two of these. Another short opening of six feet is of like construction. At East Corning are eight bays of fifteen feet each pile bridge, all amply strong and in good condition. These constitute all the timber-work below floor-beams on this division, and could be readily changed to iron girders and stone abutments. There is a large amount of iron trussing and plate girders. Some of the structures are quite extensive. Occasionally an iron bridge needs painting. At Binghamton, over the Chenango river, is a deck bridge of several spans. A portion of the floor has lately been renewed, and the completion of entire new floor is suggested, as there are a number of rather old floor-beams. Five spans of 120 feet each, east of Wellsburgh, have a new floor. The renewal of sleepers was not completed. A large number of them too old, or badly indented, were noticed. Yellow pine sleepers were scattered along, and possibly all such defects will be remedied. The work of reballasting was being vigorously pushed. Two work trains of sixty cars each were employed in that work on this division alone. Furnace slag is extensively used for ballast. The track is in good adjustment, ditches and road-bed in order, and the fences fairly kept up through cultivated lands. Two hundred and seventy-eight miles of fence have been repaired or rebuilt on the entire road during 1889 and 1890, and yet long stretches are down or in poor order. The station buildings are in about the same condition as two years ago. The depot at Canistota is being entirely overhauled.

#### *Buffalo Division,*

From Hornellsville to Michigan street, Buffalo, ninety-one miles, all double track, and to Suspension Bridge, twenty-four miles, single track, the Tonawanda and Lockport branch, fourteen miles, single track, and the International Bridge branch, six and a half miles, a total of 135 miles.

#### *Hornellsville to Michigan Street, Buffalo.*

The changing of rail to seventy-four pounds steel per yard has been continued, and further like work is in progress. The bridges and openings have not been changed. Many have been newly floored and iron work painted. About twelve openings, from four to six feet span, have timber girders, all other bridging is of iron. West of Attica is a two-truss

pin deck bridge of two spans, about sixty-five feet each. The outside rail of each track nearly overhangs the truss, which seems a doubtful construction. Inquiry as to the advisability of its retention is suggested. The Portage viaduct has been repainted. It is kept in good condition and crossed at a speed of six miles per hour. Generally the sleepers are in strong life; at points they were not sufficiently so, but renewals were being made, and the end of the season will probably see all such objections removed. The fencing is but fair, though nine miles of new fence has been constructed this year. Generally the drainage of road-bed was good. A few cuts have slid in and filled the ditches. The superstructure is nearly all in good adjustment and roadway well kept. There has been no change of moment in the passenger stations; each was examined, and, with a few exceptions, were found neatly kept and in good order, many having lawns and flowers.

*New Jersey State Line to Nyack.*

From New Jersey State line on the Northern railroad of New Jersey division to Nyack, a distance of about six miles. The road in New Jersey is being double tracked, which will be continued to a junction with the Piermont branch at Sparkill. It is laid with steel rails, has strong sleepers and well-adjusted track. The road-bed is well drained and roadway neat and orderly. South of Grand View is an opening of fifteen-foot span, the wooden stringers of which are in poor condition. A plate girder is to be substituted. South of Tappan are two spans, of fifteen feet each, waterway in good order. The passenger stations are in good condition, and each is embellished with lawns and flowers. It is a good single-track road.

*Piermont Branch.*

From the long dock in Hudson river at Piermont to Suffern, a distance of about seventeen miles. It is single track, laid with steel rails, in very good condition, formerly used on the main line. Over the West Shore railroad are three spans of plate-deck girder, on iron piers and masonry abutments, all in good order. West of Blauveltville are eight bays of new yellow pine trestle, stoutly built. A sixteen-foot span waterway has been rebuilt. The bents rest on masonry piers. South of Spring Valley are two bays of trestle, quite old. A new structure of stone and iron is to be erected this year. Over Ramapo river are fifteen bays of new yellow pine trestle, forty-five feet high. The bents in the river have crib foundations. There are five other openings, three of which are trestles, of one to four spans, each of which are in good order. The sleepers are in strong life where renewals have been made this season. Yellow pine sleepers were delivered for further renewals. The roadway is untidy—ditches want opening and track better adjustment. All cross-fences at highways are neatly whitewashed, and warning signs are in place. There is no change in the depots since previous inspection. They were found quite orderly and neatly kept.

*East Buffalo to Suspension Bridge.*

From the junction with the main line at East Buffalo to Suspension Bridge, about twenty-four miles, of which five miles, to International Junction, is double tracked; a branch from International Junction to International Bridge, four and a half miles, is also double tracked. No particular change has been made in this division since 1888. There are six separate pile and trestle bridges, from eight to twenty-eight bays, in good condition. The longer one near Tonawanda is to be filled this year. The filling of the long trestle approaches to the bridge over the New York Central and Hudson River railroad, near their shops, has been completed. The four spans of pin through truss over the tracks are in good condition; two of them are quite new. The other trestles are in fair condition. The trestle over a street in Tonawanda which has caused some complaint before your Honorable Board still remains. Masonry abutments and a plate girder bridge, properly constructed would give more roomy passageway underneath. West of La Salle are nine bays of new pile bridge in place of an iron through truss, lately knocked down by a derailed train. The superstructure in

very good condition and roadway neat and orderly. The stations are as before reported, all in good condition, cleanly and some have been repainted.

*Tonawanda to Lockport,*

A single track, fourteen miles long, laid with steel rails. All the openings, seventeen in number, are of timber. West of Martinville is a pile bridge of nine bays in fair life. East of the same place are three separate like structures of seven bays each, in like condition. The other openings are single spans of about ten feet each. They have timber bents and plank lagging. A number of them are only in fair life. All cattle-guards have been filled, and slats substituted, as also on nearly all of the Buffalo division. The track is in very good maintenance, fences somewhat neglected and roadway neatly kept. No changes have been made in the passenger depots except at Lockport. This depot is a large frame building, elaborate in design with a large waiting-room nicely furnished, and covered platform. Lawns, flowers and fountains adorn the grounds. It is newly painted and all looks bright and clean. Martinville and Pendleton Center are small local stations and their depots are in good order.

*South-western Division — Jamestown to Buffalo Creek Junction,*

About sixty-five miles in length, all single track. The only change on this division since the last inspection, is in the operating of the eleven miles east of Jamestown to Waterboro. Between those points the track of the New York, Pennsylvania and Ohio railroad is parallel to and adjoins that of the southwestern division. A cross-over has been put in at Waterboro, and the eleven miles are operated as a double-tracked line. There is a large amount of timber bridging of all kinds on this division. A majority of the openings are thus spanned. West of Kennedy is a through Howe truss of 140-foot span, which has trestle abutments resting on piles. Bridge 22, a low through Howe truss on trestle abutments, is in good order. East of Waterboro are two fifty-foot spans of through Howe truss on pile abutments, all in good condition. East of this is a sixty-foot span, low through Howe truss, with pile abutments, all in good life of timber. West of Conewango is a 100-foot span, through Howe truss, in fair life. The bridge rests on trestle abutments on pile foundations. Near this last is another exactly similar bridge in fair life of timber. Bridge 17, near Cherry creek is a sixty-foot span, low through Howe truss, on timber cribbing for abutments, all in good life. Bridge 16 is a similar structure in good condition. Bridge 15 is an eighty-foot span, through Howe truss, on pile abutments. The whole in good life of timber. All these through bridges have guard-posts in lines of trusses. West of Gowanda is a sixty-foot span, low through Howe truss, on good masonry abutments, and is the first masonry, from one mile east of Jamestown. Bridge 12, over Cattaraugus creek, consists of two 120-foot spans of through Howe trusses. The westerly span is in strong life and good order. The easterly span is quite old and defective. It has broken angle-blocks, some of them into three pieces. A new bridge is essential for safety. The rock on which the piers and abutments rest is of a shale formation and is being rapidly worn away at the bridge piers. A protection of stone and brush has been provided, but its stability should be closely watched. A sixty-foot span low through similar truss, immediately east of this last, is in fair life of timber, and has good masonry abutments. There are several iron bridges and one viaduct (bridge 5) 100 hundred feet high, upon which has been laid a new yellow pine floor. Its masonry pedestals are in good order. Bridge 6 is a sixty-foot span plate girder, of quite recent construction, and is a good bridge. There are sixty-six separate trestle openings, from one to eight bays each, and ten separate pile bridges from three to eight bays each, the whole aggregating about one-half mile in length, besides twelve other single spans on the flats near Buffalo, which will be filled this season. East of Gowanda are fourteen separate openings, having good masonry abutments and timber girders, and three of the kind having rolled beams. Bridge 8 is a long span of deck-pin truss, having two bays of trestle approach, one bent of which is in a poor condition, otherwise the bridge is in good order. Bridges 2 and 3 are newly erected deck plate girders in place of lattice trusses, too light, and on bents

when last examined. In the yard at Jamestown is a double-track pile bridge of three bays, which should be in part renewed. Over Chautauque lake outlet is a new double-track viaduct, on excellent masonry substructures. The bridge has been raised four feet, relieving a depression in the grade. East of this is a seventy-foot span pin-deck bridge, having wooden track stringers and floor beams, all in good order. East of this are two spans of forty feet each, plate-girder deck, in good condition. The superstructure is very well maintained, and generally has a good adjustment of line and surface. As a whole, the road-bed is well formed, neatly defined and ditches well opened; fences are stronger than usual on the Erie system. Collins, North Collins and Eden Center have miserable passenger depots. All the others are in good condition, and with one or two exceptions were found clean and orderly.

*Western Division — Hornellsville to Dunkirk,*

One hundred and twenty-eight miles, all single track, except about five miles between Carrollton and Salamanca. Twenty-six miles of the road between Hornellsville and Salamanca are laid with steel rails seventy-four pounds per yard weight, and balance eighty pounds. The latter has been laid this season. There are five pin-connected and lattice trusses, fourteen through Howe truss bridges, one of which has two spans, two Warren girders, ten plate girders from twenty-six to thirty feet span each, twenty-four pile and trestle bridges from one to ten bays each, and thirty-three separate timber girder openings with masonry substructures, many of which are covered with sheet-iron as a protection against fire. Nearly all of the masonry on this division has been repaired within the past year, and the whole is in good order, except west of Friendship is a masonry viaduct having broken arches. Pin bents and stringers are temporarily used. East of Smith's Mills is a ten-foot-chord arch culvert under a heavy embankment. The end of the arch is broken and there is danger of a sliding of the embankment. East of White House are three spans of thirty feet each arch viaduct, sixty feet high, in good order. Bridges 34 and 39, both Howe trusses, remain as before reported. Renewals another year are suggested. Bridge 35, a 100-foot span through Howe truss, has a bent in the center. A new structure is desirable, there being danger of ice or debris dislodging the bent. A renewal in part of one or two trestle openings seems necessary. Except these, the trestles, trusses and minor openings are in very good condition. Nearly all cattle-guards have been filled. Highway warnings are each in place and cross-fences whitewashed. The maintenance of superstructure is much improved. At time of inspection renewal of sleepers was not finished. Cedar ties are used on tangents and oak on curves. East of Dayton all are of oak, and of large size, none less than eight inches face. Reballasting has been vigorously prosecuted during the last two seasons. Short sags in grade, some of which were three feet deep, have been taken out. West of Salamanca is sixty-two pounds per yard steel, to Dunkirk, part of which has been in former use. It is in good condition for traffic it now sustains. The adjustment of track and shaping of road-bed is workmanlike and thorough. Thirty-five miles of new wire fence has been built this season, and the work is to be continued until the entire division is strongly inclosed. The new fence is distributed where most needed. Nearly all of the depots were inspected. There has been but few changes or betterments. Hornellsville has a large brick passenger station and restaurant, all in excellent condition. The high platforms at Wellsville, Seio, Friendship, Olean, Carrollton and Perrysburgh have been lowered, which leaves but few of the dangerous high platforms at depots on this division. At Dunkirk the train shed has been removed and a covered way substituted between the tracks of the Erie and the Lake Shore road. Some of the depot waiting-rooms are dingy and worn, but all were found in a cleanly condition.

*Rochester Division — Painted Post to Rochester,*

Single track, ninety-three miles in length, laid with steel, mostly in former use on the main line. Some of the rail is a little too much worn for so important a road; as a whole, however, it is in fair condition.

particular changes have been made since 1888, except the improvement of a few of the bridges. Bridge No. 1, formerly a Howe truss, is now a forty-foot span plate girder through. Bridge 6 is a fifty-foot span plate girder through, in place of bridge destroyed by flood. At Bath is a new double track plate girder of twenty feet span. Immediately west is another like structure newly erected. Bridge 11½, near Avoca, is a new sixty-foot span, pin through truss, where was a too light lattice. North of Wallace's is a new twenty-foot span double I-beam girder on new masonry abutments. Bridge 18 was an old Howe truss when last examined. It is now a plate girder through of eighty-six-foot span. North of Conesus is a new deck plate girder of sixteen-foot span. Several minor waterways have new masonry abutments and others should be relaid. North of Avoca is one of these, a twelve-foot span, eighteen feet high. The masonry is badly shattered and falling, but shored up with timber. Its repair appears quite necessary. South of Avoca is a double cattle-pass of timber, which is too old. Masonry abutments and iron girders are suggested, if it is to be maintained. A small opening south of Conesus has broken abutments, and south of Springwater is another in like condition. Bridge 17, a through Howe truss, sixty-foot span, rests on bents and has pile abutments. A new bridge is suggested. A waterway, south of Kanona, has broken masonry abutments. Bridge 8, a through Howe truss of two spans, each 122 feet, has its floor beams suspended. This bridge is too low and ice knocks off floor beams. It is on pile abutments. Bridge 5 is of two spans, through Howe truss, very old and in poor condition. It also has pile abutments and pier. The longer span is on bents at second panel point. A new bridge is very necessary, as there is great danger from ice flow. Bridge 3 is two spans of through Howe truss, of 145 feet. In the fourth panel of one truss an inside lower chord strand is gone with decay. A new bridge would be much safer than to repair, unless all chords were opened up and carefully inspected. The top chords are also decayed. Most of the Howe trusses have piling abutments and piers, and a number have pile trestle approaches. In all there are about twenty-three openings, from five to sixteen feet wide, which have masonry substructures and wooden girders. There are ten pile and trestle bridges from one to twenty-six bays each, aggregating about 550 feet in length. Fifteen openings have rolled beams and masonry substructures. There are sixteen plate girders, and over Genesee river and canal feeder are several spans of lattice truss. In all there are fourteen Howe trusses, all of which will probably answer a time longer, except those noted as defective. The superstructure is very well adjusted on entire division, and sleepers generally in good life. The road-bed is very well ballasted (one mile of which is broken stone), neatly formed and well drained. The fences are very well kept up, and between thirty and forty miles of new wire fence has been erected in past two years. The passenger depots are the same as before reported. They are generally neatly kept and in good condition. The depot at Kanona is in bad order. It has broken floors and ceilings. Most of the stations are adorned with lawns and flowers.

#### *Avon to Dansville,*

A single track thirty miles in length, twelve of which, south of Mount Morris, are laid with iron rails. The balance is steel, in former use on main line. The sleepers are in fair life only, and track adjustment ordinary. Stub switches are in use. At the grade crossing of the Delaware, Lackawanna and Western railroad is a tower from which are actuated distant signals, interlocked with throw-off switches. The crossing is on an embankment about ten feet high and no provision made for the derailing of a train, sometimes necessary to prevent collision, except to throw it down the embankment. All the railroad grade crossings of the Erie system in this State are provided with the same protection, and in a few instances there is the same omission of a proper road-bed upon which to turn a train, wrongfully attempting to cross against signals. The viaduct, south of Avon, before reported as shattered, and upheld by timber and iron rods, is still in the same condition. Bridge 2 a through Howe truss of 150-foot span is in poor condition. The strands of



the lower chords are opening at the ends and are somewhat decayed. A new bridge is suggested. North of Genesee is a short span, the abutments of which are undermined at one end, and a protection of rip rap is necessary. South of the same place are two openings, one of twelve and one of fourteen feet width, the masonry of which is much shattered. South of Mount Morris the line follows the low flat lands of the Canaseraga valley, in which are forty-nine separate pile and trestle flood bridges, aggregating 2,350 feet in length and averaging about four or five feet in height. These trestles are in fair life, mostly rebuilt in the last five years; a few since the last inspection. One span of six feet has rolled beams for girders, resting on oak bents. There is also a low through Howe truss of sixty-five-foot span, in fair life of timber, built in 1881. There is but little ballast on this branch and scarcely any south of Mount Morris. The fences have been repaired to some extent, but as a whole are not in strong condition. Care is taken to keep the roadway clear of weeds and debris. The road has little traffic and trains run slowly. There has been no change in the depots since 1888. Each was found in fair order.

#### *Avon to Attica,*

Thirty-five miles, single track, laid with steel rails, in very good condition. The sleepers are in strong life generally; road-bed well ballasted for twenty-four miles with gravel and broken stone, and track adjustment workmanlike. There are a large number of openings in the road-bed, mostly of minor width, some of which are defective in their substructures. East of Caledonia is a waterway of ten-foot span having shattered masonry shored up with timber. West of the same place is a fourteen-foot span in like condition. East of Le Roy is an opening of two eleven-foot bays, one abutment of which is broken, and girders supported by a timber bent. Some of the openings have been rebuilt since the inspection of 1888. At Avon is an under-farm crossing, of fifteen-foot span, which has new abutments and strong timber girders. West of Le Roy is a new plate deck girder of thirty-foot span, with new substructures. Near Avon is a new pile bridge approach to the girder spanning the Western New York and Pennsylvania railroad. West of Caledonia is an eight-foot span which has double rolled-beam girders and new abutments. At the crossing of Tonawanda creek, near Batavia, a new Pratt pin through bridge of 190-foot span has been erected in place of a too old Howe truss. The abutments are heavy oak bents on pile foundations. New abutments have been built at a plate-girder flood-bridge near Avon. The long span of pin bridge over Genesee river, is in good order, except a few floor ties. Between Batavia and Attica, the line follows the low flatlands of Tonawanda creek. There are a large number of flood trestles, some of which are in need of renewal. The roadway and fences of this division are in fair order. No changes in the depots to note, each was found in good condition.

#### *Bradford Branch,*

A single-track road, of which seven miles are in this State. It is laid with steel rails, is strongly tied and track nicely adjusted. There is one truss bridge, a Pratt pin through of 160-foot span, on excellent masonry substructures. There are sixteen pile and trestle bridges, from one to eighty-four bays each, aggregating about 1,600 feet in length, all about six years old. The stringers are covered with galvanized iron as a protection against fire. At the grade-crossing of the Western New York and Pennsylvania railroad is a tower, throw-off switches and distant signals.

#### *Tioga Branch,*

A single-track road, from a junction with the Northern Central, about three miles east of Elmira to Pennsylvania State line, a distance of about six and one-half miles, laid with steel rails in former use on the main line. Bridge 1, formerly a Howe truss of three spans, is now a pile trestle of twenty-five bays, with three piles to each bent. Bridge 5 is a through Howe truss, about 100-foot span, in good condition. Bridge 11, crossing the river

creek, is a sixty-foot span through Howe truss, with nine bays of pile trestle approach. The whole is in fair life of timber. Besides these there are eight separate pile bridges, of three to eight bays each, and four bays of single spans, trestle bridging. These timber structures are in fair condition. One small opening has masonry abutments. At a point on a curve where the road-bed adjoins Seeley creek, a timber protection has become decayed and embankment is quite narrow. It is suggested that the protection be reconstructed and road-bed widened. The fences are more or less neglected. The Seely creek depot is in fair condition. The depot at Wells was recently burned and a temporary shelter is provided.

#### *Crawford Branch,*

Single track from Crawford Junction, about six miles west of Middletown, on the New York, Ontario and Western railroad, to Pine Bush, about ten miles, laid with steel rails, has stub switches, and the track in poor line and surface, and not very well maintained. The road-bed is more or less overgrown with grass between the rails. The sleepers are not in very good condition, as too many of them are over-decayed. Ties are scattered along for renewal. There are no truss bridges, and but fourteen openings in the road-bed, most of which are about five feet wide. Some have masonry abutments, others trestle bents or timber docking. Near Crawford Junction is a six-foot span, with rail on stringers. This branch wants a general overhauling. The depot at Belleville has recently been burned. The depot at Pine Bush has been thoroughly repaired since 1888. The depot at Thompson's Ridge is a frame building, dingy and small. The fences are in better condition than when last examined, but much is to be done if they are to inclose the roadway strongly.

#### *Newburgh Branch,*

Nineteen miles in length, from Greycourt, to Newburgh. Single track, except for about three miles out of Newburgh and one mile out of Greycourt, which are double tracked. Also a branch, twelve miles in length, from Vale's Gate Junction to Turner's Junction with the main line. Bridge 3, near Salisbury Mills, a 100-foot span Pratt pin through truss has been recently erected in place of a too old Howe truss. This removes all the wooden trusses on the Newburgh branch. There are ten other pin bridges, from eighty to 120-foot spans, two Warren girders, of forty and fifty feet span, and seven spans of plate girders, all in good condition, except a few trusses need to be painted. Their masonry is in good order, and some of the trusses have new floors. Thirteen openings, from four to twelve feet each, have rolled beam girders on fair masonry abutments. An opening with rail on stringers is to have an iron pipe and filled up. Near Greycourt is a pile-and-trestle double-track bridge of four bays. Two or three minor openings have timber girders. The masonry of some of the small openings is in poor condition. The station buildings are frame, except at Newburgh. The depots at Highland Mills and Salisbury have been renovated and, with some others, painted. All are in good order and very tidily kept. Much of the steel rail in these branches is considerably worn. Generally the sleepers are in good condition, but stretches of superstructure were noticed in which they were in too low life, but renewals were in progress. Fences, for the most part, are very well kept up, and roadway neat.

#### *Montgomery to Goshen and Pine Island,*

A single-track road twenty-two miles long, over which, between Pine Island and Campbell Hall, the Pennsylvania, Poughkeepsie and Boston Railroad Company has recently acquired trackage. The Walkill Valley railroad also has a like use of the line between Campbell Hall and Montgomery, six miles. No change of moment has been made in the maintenance of this branch since 1888. The iron has been superseded with second-hand steel rails, and the life of sleepers has been strengthened to some extent, but the condition of the line and surface of the track, especially along the black marl flats, near Pine Island, has not been materially improved.

It will require considerable cinder ballast before a much better adjustment can be attained. There are no truss bridges. A few A trusses have been changed to pile trestles. A number of short openings have railroad bar girders, and others have timber stringers. These openings are mostly in fair condition. The fences are kept up, except along the soft lands referred to. No change has been made in the depots. Each was seen and found as before reported. Perhaps some are more neatly kept.

*New York, Pennsylvania and Ohio Division,*

A single-track road, forty-six miles in this State. The track has been entirely relaid with sixty-eight and one-half pound per yard steel rail in past two years, and a larger part of road-bed rebalasted. Between Waterboro and Jamestown, ten and one-half miles, the Buffalo and South-western parallels this road. Both divisions operate these tracks as a double-track road. There has been a betterment of bridging since the inspection of 1888. Bridge 5, a plate girder through, has new floor system of iron. A new plate girder has been erected over a street in Jamestown, and of sufficient width for the track of the Buffalo and South-western division, which interlaced over the old structure. The new girder is longer than the old, admitting of a wider street. A number of bridge floors have been renewed. Near Salamanca is a through Howe truss, of 105-feet span, resting on five bents. The timber in the truss is in very poor life and a new bridge is suggested. Bridge 1, a pin through, 141-feet span, has a too old floor. Bridge 3 a parabolic girder of fifty-four-feet span, has new masonry abutments. Bridge 6, consisting of two eighty-feet spans of through Howe trusses, is twenty-two years old. It is suggested that a careful inspection of its timbers be made, and a report furnished your Honorable Board. The two spans of Howe truss over the Chautauqua lake outlet, burned a few years ago, has not been rebuilt; a trestle work still spans the opening. With these three wooden structures rebuilt in iron, all wood bridges, except a trestle 108 feet long at Red House, would be removed from the permanent way. There are fifteen short spans from four to fourteen feet each, having wooden girders. The masonry sub-structures are, with two minor exceptions, in good order. The general life of the sleepers is fair, but renewals had not been completed at time of inspection, and ties were scattered for miles along the road. Probably at end of the season they will be in strong life. The track is in excellent adjustment, and ditches well opened. The fences are very well maintained throughout. Little change for the better has been made in the depots, except at Lakewood. This depot has been much improved. It has two good waiting-rooms, well furnished, and long covered platforms. The depot at Jamestown has been repaired to some extent. The depot at Salamanca is in an unfit condition, and far too contracted for the amount of travel. The depots at Ashford and Watts Flats are in poor order, especially the former.

**NEW YORK, NEW HAVEN AND HARTFORD RAILROAD.**

*Main line.*

About twelve miles of the Harlem division of the Central Hudson road, from Grand Central depot to Woodlawn junction, are jointly used by the New York, New Haven and Hartford company. From Woodlawn junction to New Rochelle junction, four and a quarter miles, is a double track; from thence to Port Chester, nine and a quarter miles, are four tracks, largely of new construction. From Port Chester to the Connecticut State line, about three-quarters of a mile is double tracked. No changes have been made, other than the completion of the four-track road referred to, since the inspection of 1888. The open floor cattle-guards noted in the report have been changed to a good floor system. The masonry at the under-highway crossing, having an open floor, is being rebuilt.

The four-track road is very thoroughly constructed and deeply trestled with broken stone. All of the superstructure is in excellent condition, sleepers in strong life, road-bed properly drained and track adjustment exceedingly good. The fences are well kept up, and roadway in good condition. The passenger stations at Mount Vernon, Pelham

and Port Chester, are as before reported. They are in good order and well furnished. At New Rochelle, a foot-bridge has been erected over the four tracks, and a covered platform has been provided on the east-bound track, in which is a suitable waiting-room. The platform on the same side at Mamaroneck has a similar waiting-room, as advised by your Honorable Board. The same has also been provided at Rye. No change has been made east of Port Chester. The double tracks are in strong workmanlike maintenance. An under-farm crossing has been filled. The beautiful passenger stations at New Rochelle, Larchmont, Mamaroneck, Harrison and Rye are kept in best of order. The two inside tracks of the four-track road are inclosed at stations and exclusively used for through trains.

#### *Harlem River Branch,*

From New Rochelle junction to Harlem river, a double-track road about twelve miles in length.

A few betterments of bridging have been made since the report of 1888. Pelham Manor trestle, 800 feet in length, all yellow pine, has a number of bents partly renewed. A few at the west end are somewhat old in life, but as a whole the trestle is in fair condition. The sills rest on piles which are in good order. It would be much better if the trestle was filled. Near this is a three-truss low through Howe bridge, in fair life, and with good masonry abutments. East of Pelham Manor is a new long-center siding.

Bridge 150, over a highway, is a Howe truss in fair condition, and is to be changed to a plate through girder. Bridge 149, a fifteen-foot span over a farm crossing, has three large yellow pine stringers, in fair life, under each rail. The abutments are fair rubble masonry. Pelham Bay trestle, 3,300 feet in length, has two spans of pin-connected swing draw. The trestle is four pile work under each track and bents twelve feet centers. The stringers are yellow pine, two under each rail, eight by fourteen inches section. The entire floor has new ties closely spaced, and guard or spacing ribbons. Bridge 147 is a two-span yellow pine trestle in good life. Bay Chester pile bridge, 1,300 feet in length, is about six feet high and the bents rest on piling. Adjoining this are two bays of similar trestle. A twelve-foot span under-farm crossing has new masonry abutments. Bridge 142, over a highway, was a Howe truss when last examined, but is now a through plate girder. Bridge 140 has been changed from a Howe truss to a plate through girder. A siding into race-track at Van Nest has lately been constructed. West Farms trestle consists of fifty-one bays of pile bridge, in which is a deck Howe truss draw bridge all in fair condition. An under-farm crossing has good abutments and stringers in good life. A fifteen-foot span similar crossing has shattered masonry substructures shored up with timber.

Cassanova pile bridge, about half a mile in length, is in good life. Another similar bridge, 900 feet long, is in like condition. All the ties on these bridges are new. Near Port Morris is a draw bridge over a channel, which had an open floor. It has now a good through double-track floor and draw closed. It will be noticed that rolled beams are not used at minor openings. In all, there is about one and one-third miles of pile and trestle bridges, a large majority of which could be filled and a solid road-bed obtained. Both tracks have recently been laid with new seventy-four pounds per yard steel. The sleepers are in very strong life, road-bed well ballasted and drained, and the track very nicely adjusted. Passenger stations are as before reported, except a new one at West New Rochelle. It is a fine brick depot and well furnished. A highway at the west end has been carried over the tracks. At Harlem river the yard sidings and water front have been greatly increased.

#### **NEW YORK AND SEA BEACH RAILROAD,**

Double track road from Bay Ridge to Coney Island, six miles in length. The rail is iron on north-bound tracks and iron, capped with steel, on south-bound, all in very fair condition. A renewal with steel rails has been made on the outside of all curves. Sleepers are chestnut, of good size and fair life. Three thousand eight hundred will be used in renewals this

season. The track was being resurfaced, preparatory to the summer travel. Generally the adjustment is good. At Bath Beach junction, where the Brooklyn, Bath and West End railroad is crossed at grade, the crossing plates are in poor order and unworkmanlike. The angle of plates is not in unison with the two lines of road, and their timber supports are badly decayed. The rail joints are not fully bolted. A stronger maintenance with plates at the proper angle is suggested.

The bridge over the Manhattan Beach railroad is in good condition, and its iron girders are well painted. At Gravesend, a six bay pile bridge wants some renewals of timber and floor ties, and a stronger bank approach. South of this are fourteen bays of pile bridge in fair life, and well floored. Crossing Coney Island creek are six bays of pile bridge, a thirty feet span of swing wooden girder draw, and fourteen bays of pile bridge at south end. A few repairs are needed, otherwise the structure is in fair condition. Little of the roadway is fenced, the adjoining lands being cultivated quite close to the road-bed.

The passenger station at Bay Ridge, and train shed adjoining, reach out into New York bay and rest on piling. It was stated that the piles had recently been carefully examined and but two found affected with the sea worm, otherwise they were all in strong condition.

The depot, sheds and platforms are in good order. At Coney Island is a large frame building used for terminal purposes and restaurant. The platforms are in need of repair, otherwise the station and terminal are in fair order. Mapleton and Gravesend have small frame depots in good condition.

#### PENNSYLVANIA, POUGHKEEPSIE AND BOSTON RAILROAD,

A newly constructed single-track road from Pine Island junction with the Erie road to Slatington, Penn., four miles of which are in this State. Its trains are run over the Pine Island and Montgomery branches of the Erie to Campbell Hall. The road runs through low lands and has uniform easy grades and alignment. The roadway is about four rods wide, inclosed with wire fences. The sleepers are of oak and yellow pine, of good size, and about 2,800 per mile. There is no masonry. A few small culverts are of plank or cement pipe. There are eight pile bridges from one to twenty-five bays each, aggregating 550 feet in length, constructed as follows: Four oak piles per bent, caps of same twelve inches square, yellow pine stringers, two of fourteen inches section under each rail, breaking joints at alternate caps, ties six by eight inches spaced eight inches, and outside spacing ribbons seven by six inches section. The ballasting and adjustment of track were not fully completed at time of inspection; where finished, the adjustment was very good. The track is steel rails, with angle bar fastenings. Wilcox near the State line has a crude station building, used mostly for freight. No other depots in this State. The passenger equipment is all new and of modern construction.

#### PORT JERVIS, MONTICELLO AND NEW YORK RAILROAD,

A single-track road from Port Jervis to Monticello, twenty-four miles, and a branch of new construction from Huguenot junction to Summitville, seventeen miles in length.

##### *Main line.*

Eight miles of track in main line is laid with steel rails in good order and balance with iron, the greater part of which is in poor condition. especially on the steep grade between Gilman's and Huguenot junction. The sleepers between these points are in poor life generally, though stretches were noticed in fair condition. South of Huguenot junction they are in strong life. It was stated that 7,000 ties were to be renewed on main line this year which, if done, will raise the average to good strength. The renewal of rails and ties on the heavy grade, which is 126 feet per mile, is very necessary for the safety of trains. A well-ballasted road bed is also much needed, in order that a good track adjustment may be maintained. There is but one truss bridge, a 100-foot span Post truss combination truss over the Delaware and Hudson canal. It has iron lower chords and floor beams. The struts, upper chords and lateral braces

of wood, all of which appear in good physical condition. The abutments are in good order. Near Port Jervis is a fifteen-foot span, plate deck girder on masonry abutments. One of these leans inward about eight inches out of perpendicular but is not broken. It would be much better if properly relaid.

Near Huguenot junction is a thirty-foot span plate deck girder all in good condition. South of Rose Point are two separate plate girders of thirty and forty feet spans which are in good order. There is one opening of eight feet, having rolled beam girders and good masonry substructures; also eight waterways from four to sixteen feet spans, one of which has two bays of sixteen and one two bays of ten feet. These have timber girders in good life, except one of ten feet north of Huguenot junction, which should be renewed. Between this junction and Monticello the superstructure is in ordinary line and surface, except for a few miles north of Gilman's. South of the junction to Monticello the track is very well adjusted. Wire fences inclose the roadway for the most part. The old debris, grass, weeds and brush have not been removed and the roadway is untidy. A change has been made in the terminal point at Port Jervis. The connection with the Erie railroad, except for freight transfer, has been discontinued, and a small frame building erected at Main street crossing. It is intended only for temporary use. At Huguenot junction a small frame depot has been erected. The other stations are as before reported.

#### *Summitville Branch.*

A new single-track road completed since inspection of 1888. It is laid with steel rails fifty-six pounds per yard weight, secured at points with angle bars. Chestnut sleepers, about 3,000 per mile, are used. The grades are light and the line has few curves; roadway about four rods wide, inclosed with four-strand wire fencing. Slat cattle-guards are used at highway grade crossings. There is a large amount of bridging. Over the Neversink is a 160-foot span through pin-connected Phoenix column bridge of good design on masonry abutments.

There are seven separate A trusses from sixteen to forty feet spans, on good rubble masonry substructure. One of these is two spans of forty feet. Also one forty-foot span Fink truss, and a twenty-one feet span girder rod opening, all of yellow pine timber, ample in volume, and each has good masonry abutments. There are three trestle bridges, one of seventy-three, one of sixty-two feet and one single span, aggregating 1,650 feet in length. The longer trestle has hemlock bents, otherwise all the timber is yellow pine. They are strongly built, and bents rest on masonry piers. There are thirty single span waterways, from four to twelve feet in width, each having good rubble masonry substructures and girders of yellow pine; two under each rail of seven by fourteen inches section. All the openings have strong floors. The road-bed is generally of ample width and all ballasted with excellent gravel. The track adjustment has not been perfected, but is fair. There are four regular way stations, each of which has a small but good frame passenger and freight depot combined.

At Summitville, a junction is made with the New York, Ontario and Western railroad whose depot is used.

#### PROSPECT PARK AND CONEY ISLAND RAILROAD.

The mileage of this road has been increased by the construction of a branch two miles in length from a point in the main line about one mile south of Prospect park, called Kensington junction, to the city line at South Brooklyn. Connection is here made with the Brooklyn, Bath and East End railroad, whose tracks are used to the depot of the Fifth Avenue elevated road. A direct connection is also made with the South Brooklyn Criminal Railroad and Ferry. The branch is well graded and ballasted with broken stone. The rails are steel, laid alternate joints, and secured with angle bars. Yellow pine sleepers are used, spaced about 60 per mile. At the time of inspection, the track adjustment had not been fully perfected, nor was the branch in operation. The main line is single track from Prospect park terminal to Kensington junction, and double-tracked to Coney Island, total distance about six miles. The

sleepers are in good life and renewals to the amount of 500 per mile were being made. A good surface and line is maintained, somewhat helped by a slight coating of new ballast, which was allowed to be put on the avenue, through the center of which it runs. The branch, or rather extension, two and a half miles to Coney Island, is used only in emergency, and is in about the same condition as before reported. At Parkville a new frame depot has been erected. It has one good waiting-room well furnished, and the necessary conveniences for a passenger station. The pile bridge at Coney Island creek and flats, about one-half mile in length, is in strong condition. New turn-tables of iron have been put in place at each end of the main line. At Coney Island additional tracks and train pockets are provided to accommodate the trains of the Brooklyn, Bath and West End road. Apparently both roads are to occupy their main lines in common. All of the summer cars were being thoroughly repaired, especially their trucks, in preparation for the summer excursion travel.

#### SEA VIEW ELEVATED RAILROAD.

This is a double-track elevated road between Brighton Beach and Coney Island, one mile in length. Were it not for the fact that timber enters largely into the construction of this road, much of which is on piling, its examination would have been omitted as are all other steam elevated roads in the State. A careful examination was made of the piling, trestling, iron piers and superstructure. The piling, which supports the Brighton Beach terminus, has to some extent been renewed and improved, otherwise no change has been made, except in the boxing of defective piles at the surface of the ground and filling the vacant spaces between the plank and piles with hydraulic cement. As before reported there are about 1,500 feet of spruce, pile bent bridge, many of the piles being almost entirely decayed at the surface of the sand beach into which they are driven. Assurances were given by the superintendent in charge that the reinforcement or splicing of these defective piles had been done in such a manner as to restore their strength, and that the boxing extended below the decayed section of the piles while it could be seen above. This remedy seems to your inspector as but a temporary expedient, and the complete renewal of all the pile work seems necessary for perfect safety before use another season. The yellow pine bents, iron piers, iron trusses and girders are in good condition. The trestle bents are about twenty feet apart, spanned with double yellow pine stringers, trussed with girder rods. A number of the rods were found loosely adjusted and working unevenly. These were to be properly tightened before opening the road for summer business. The caps and wood girders are in fair life and bridge floor in like condition, except that quite a number of new ties are necessary. The rail is but little worn and adjustment of track is fair. Some of the iron work needs repainting. It is suggested to your Honorable Board that a careful examination of the wood girders be made and the pile work entirely renewed, using larger piles.

#### SILVER LAKE RAILROAD,

A single track from Silver Spring station on the New York, Lake Erie and Western railroad to Perry, six and one-half miles. A connecting road between Silver Lake and Silver Lake junction on the Buffalo, Rochester and Pittsburg railroad, one mile in length, is used jointly with that company. Little change has been made in the physical condition of this road since the inspection of 1888. The track is laid with steel rails in good condition, except an occasional bent bar. The sleepers are in fair life, but the track adjustment is very ordinary. There is very little if any ballast on the road-bed, yet with the stony soil of which it is formed a much better one and surface is easily attainable. The grades and curves are light, and with proper pains and effort the adjustment of superstructure might be greatly improved. For two or three miles the track closely borders Silver Lake. Its waters have cut into and undermined the slope of embankments. In two places the road-bed is washed away to a point one foot inside the rail, and for quite long stretches the slope next to the lake is dangerously steep, from the end of the sleepers to the water. It was g-



gested that the exposed slope be filled and protected with stone, or that the road-bed be thrown into the opposite hillside. Your Honorable Board was immediately notified of these serious defects.

There is a short span, low pin through truss over a street, beyond the passenger station. It is crossed to reach coal pockets and yard. There are four other minor openings of about four feet each. Two of these should be rebuilt and in a better character of work.

Along the lake are a series of camp grounds, hotels and the grounds of the Wyoming Historical Society. All these places are largely patronized during the summer months. At Perry is a frame passenger and freight depot combined. It has a small waiting-room, possibly sufficient for its business.

#### STATEN ISLAND RAPID TRANSIT RAILROAD,

From Clifton to the State line of New Jersey at the center of the channel of the Arthur Kill, a distance of about eight miles. The company leases and operates the Staten Island railroad from Clifton to Tottenville, about fourteen and a half miles, and owns a branch from Clifton to Arrochar, about one and three-quarters miles.

##### *Main line.*

Tottenville to the State line of New Jersey, twenty-two and one-half miles, of which, between New Dorp and Arlington, eleven miles, is double-tracked.

At the crossing of the channel of the Arthur Kill there is a swing draw bridge 500 feet over all, forming two spans of 240 feet each. It is a pin through connected truss and operated by steam power. A fixed span of like construction, 150 feet in length and 5,700 feet of pile and trestle bridging form the approach on the New York side. The masonry substructures of both the fixed and draw spans are of an excellent character. The long trestle and pile work is about one and a half years old. It is strongly built and is to be filled whenever renewal becomes necessary. At West Brighton, a trestle 400 feet in length, and another at Red Lake, 100 feet in length, have been filled. The embankments along the edge of the water in the bay have been strongly faced with stone. The remaining trestles along the bay shore, between Port Richmond and Sailors' Snug Harbor, have been reinforced with intermediate bents or otherwise strengthened. All trestles have a good floor system.

Between New Jersey line and New Dorp, the tracks are laid with steel rails of seventy-four pounds per yard weight, and much of the road-bed is ballasted with broken stone. From New Dorp to Tottenville there are yet two miles of iron rails in poor order and renewal appears necessary. The sleepers are mostly in good life. On the old road, south of Clifton, ties were freely scattered for renewals this year. The track adjustment is quite good, and roadway and fences are in good order.

New frame depots have been erected at Arlington, New Dorp and Garretsons. The depots at Stapleton and Gifford's have been thoroughly renovated. The depots at St. George and ferry-house adjoining, are old buildings or sheds which are to be changed to a large depot suitable for the landing of ferries. A large passenger business is done in the summer months. It was stated that one day last year 83,728 passengers were carried. The other depots are as reported two years ago. They are in good condition and neatly kept. All have high platforms to accommodate the rapid transit cars. St. George is intended to be the terminus of the Baltimore and Ohio railroad, which company substantially operates the Staten Island road and leased lines.

##### *Arrochar Branch,*

A double-track road, about two miles in length, between Clifton junction with main line to Arrochar. The superstructure is strongly tied and well ballasted with broken stone. The trestle bridges over streets are in strong condition. There are no minor openings. At Clifton junction is an interlocking system with distant signals and throw-off switches. Rosebank is a small frame depot neatly kept, as are all the depots on the Staten Island



road. Fort Wadsworth has a frame depot in good order. The terminus at Arrochar has a good frame depot with neatly furnished waiting-room. The yards at all stations where the road is double-tracked, are fenced in a manner to prevent passengers crossing the tracks at grade. Many of the depots have bridges over the tracks. At St. George is a large plant of freight-houses, and wharves are being constructed; also a passenger depot. One freight-house, which will hold twenty cars has already been built. At the same point is a Howe truss ferry-slip float, strongly built for the transfer of cars to boats. Generally the road is very well maintained, and shows improvement since the former inspection.

#### SYRACUSE, ONTARIO AND NEW YORK RAILROAD.

The last inspection of this road, made in 1888, showed a decided improvement in its condition over that of previous examinations. Further improvement and greater strength of permanent way has been accomplished within the past two years. There are about fifty wooden trestles and pile openings from single spans of four feet to pile trestles of four bays of eleven feet, a large majority of which have been rebuilt in yellow-pine timber and white-oak piles. There are three single-span trestle openings having bents of hemlock timber, the life of which is advanced and their renewal desirable. Also the lagging in rear of the bents of a few openings should be renewed. Of the pile bridges, one or two should be rebuilt, and a few openings have not sufficiently strong embankment approaches. Other than these exceptions the openings constructed entirely of timber are in strong condition. There are seventeen separate openings, from four to sixteen feet wide, having good masonry abutments and yellow-pine girders; two of these have truss-rods in addition. All have strong floors. The masonry of these, also of the truss and plate-girder bridges has been thoroughly repaired and repointed. The iron trusses have in some instances been replaced with plate-girders or reinforced. Crossing the Central-Hudson near Syracuse, where was a through low-lattice, is now a heavy plate-girder through. The 120-foot span through iron lattice crossing the Erie canal near Fayetteville has been reinforced, and the lattice low through-truss over highway adjoining is now a through plate-girder. South of Cazenovia is a forty-foot span lattice deck reinforced with an additional truss at center. The four deck plate-girders over highways south of Erieville are as before reported, two of which, however, have been newly floored. The tunnel north of Cazenovia, 1,600 feet in length, for the safety of which solicitude has been felt, has developed, by the removal of a portion of the arching, a very good natural roof. At the time this inspection was made a portion of the arching and side walls, about 100 feet or more in length, had been taken down. A careful examination, with the aid of a powerful light, revealed a strong horizontal strata of rock at top of the tunnel, and the sides were in a solid condition. Why this tunnel was arched where the exposed roof was at time of inspection, is a matter of conjecture. Certainly the roof and sides exposed are as strong and free from liability of failure as could reasonably be desired. Where exposed, the arching was but little protection, as there is a space from two to four feet between the top of arch and top of tunnel, back filling having been entirely overlooked, or, it is possible, may not have been considered necessary. If the arch was to be of any use it should have been thoroughly packed between its top and roof of tunnel. The portals have very good masonry, and the lining will probably be retained for a short distance at each end. The work of removing the side walls and arch was in progress, and there may be portions of the roof requiring support. In places, the side walls of lining are quite thin, at points not over twelve, and even less, inches in thickness. Where the lining has been removed, the rock sides of tunnel appear sound and entirely free from disintegration, although at times in winter they are frozen solid, and expansion of the ice has forced the side walls inward in several places. In the open cutting approaches the rock exposed has disintegrated. The character of the formation through which the tunnel is driven is a bluish slate, becoming shale when exposed to the elements. During the freeze season experience has shown, as before stated, that the entire tunnel freezes solid. As there is considerable percolation of water through

roof, ice forms on the side and bottom of tunnel quite heavily. This can be obviated by closing the ends when not used for passage of trains. Material was at hand and in transit to construct such arching as the roof of tunnel when exposed might require, but the probabilities are very little, compared with length of tunnel, will be necessary.

The general condition of the superstructure as regards strength of sleepers was found much better than in 1888. Occasional stretches of track have yet too many unsound ties, but the renewals for this season were not completed and many new sleepers were scattered along the roadway. Fifteen thousand were renewed in 1889, and a like number will be renewed this season. It is suggested that all the sleepers incompetent of themselves to hold track strongly in gauge, be renewed. The maintenance of track adjustment during the spring and fall would be greatly enhanced if the superstructure was thoroughly ballasted, a work which appears to have been largely omitted from the beginning. The road-bed is fairly ditched or drained and roadway neatly kept. Considerable fencing has been rebuilt, but there remains much of like work to be done before the entire roadway is thoroughly inclosed. A new iron turn-table has been provided at Earlville. The depots are the same as before reported. Generally they were found neat and cleanly, and most of them have good platforms. As a whole this property is in very good physical condition and shows a constant improvement much needed from the time of first inspection in 1884.

#### ULSTER AND DELAWARE RAILROAD,

A single-track road from Rondout to Hobart, seventy-eight miles. An extension, westerly from Hobart, is under construction, and about nine miles of track have been laid, but not yet operated. A careful examination was made, and the road found in very fair condition. The most serious defect, perhaps the only real one in the permanent way, is the condition of masonry at the minor openings. Nearly all are of the original construction, built of small thin stone, laid dry, with generally too light abutments. A few substructures have been rebuilt with larger stone, laid in hydraulic cement, and more massive. Abutments were seen that would probably fall of themselves if their timber supports were withdrawn. A number of these shorter spans have too old and inefficient wall plates, unable to hold the dry masonry together at the bridge seats. It is suggested, as a further strengthening of the road, that all the old dry masonry abutments be rebuilt, and that, as far as possible, iron-rolled beams, or girders made of railroad bars, be substituted for the wood girders as fast as renewals are required, completing a like work already begun. There are now 106 separate waterways, cattle-passes, cattle-guards and like openings, from three to eleven feet wide, which have railroad bars for girders. Forty-two separate under passes and waterways, from four to twenty-two feet in width, have timber girders. There are six pile and trestle bridges, from two to five bays each, aggregating 250 feet in length. Nearly all these timber girders and trestle bridges are in good condition, and with perhaps two exceptions the girders are sufficiently large. One of ten feet and another of twelve feet width have one girder under each rail twelve inches square, a much less section than any other of like span. There has been a betterment of the truss bridging since the previous inspection. Over a street in Rondout, where was a Howe truss, there is now a plate-through girder of twenty-two feet span, and U girders over the sidewalks. West of this, where was a trestle, are now two spans of twenty feet each, plate-deck girders. A fifty-foot span, low through Howe truss over another street is in poor life, and is to be superseded by an iron truss. A trestle 250 feet in length has been removed, and a solid embankment formed, after constructing masonry retaining walls. Another Howe truss of eighty-foot span, over a street, is in fair condition. All these bridges have good masonry abutments. The through lattice, 212 feet in length, over Esopus creek is in good condition. As yet nothing has been done towards reinforcing this bridge, as suggested by your Honorable Board. Trains run slowly over it. West of Olive branch is a new forty-foot span, low through Howe truss, where was a pile bridge. It has pile abutments. The seven spans of like truss, seventy-five feet each, over Esopus creek have been repaired, and

timber painted. It is in fair life and has good substructures. Over the Bushkill are two spans of Queen truss, thirty-six feet each, and five stringer spans of eighteen feet each adjoining, which with their abutments and piers are in good order. Another low through Howe truss over Esopus creek, east of Boiceville, has four spans of sixty-eight feet each. The truss rods have been enlarged and the timber is in good life. East of Pine Hill is a very strong deck Howe truss, of seventy-foot span and fifty feet high, all in good order. East of Arkell is an eighty-foot span, low through Howe truss in fair condition. West of the same point are two spans of Queen truss, twenty and forty feet wide, and west of this are two similar trusses, of forty and fifty-foot spans, where was a pile bridge in 1888. East of Halcottsville is a thirty-foot span Queen truss, in good life of timber. East of Grand Gorge is a similar span in like condition. East of Stamford are two like spans, newly erected, and new abutments. All the trusses but one have good masonry substructures. The track is generally well maintained, and new steel has been laid from Rondout to a point west of the West Shore crossing. The rail west of this is all steel, weighing about sixty pounds per yard, except on the steep grades of Pine Hill, where it is heavier. The renewal of sleepers had only begun for the season at time of inspection. Fifteen thousand ties were renewed in 1889, and a like number will be renewed this year. The average life of sleepers as given by the company's report is five years. Possibly hemlock is the basis of such an estimate. Hard wood and yellow pine will last eight years, making the average life seven years. Estimating 200,000 ties in the main line, the renewals should be 28,500 per year, or 13,500 more than have been replaced each season. It is possible that the sleepers are retained full long enough for their ability to hold the track in gauge. A number of places were seen where they were much decayed and too deeply indented. The road-bed at the westerly end was being rebalasted, and sleepers were being renewed while raising the track. The adjustment of superstructure is very good, especially its surface. Generally the fences are well kept up, and roadway in very good order. No changes have been made in the passenger depots. A number have been painted and all were cleanly and comfortable.

#### WALLKILL VALLEY RAILROAD.

A single-track road from Kingston to Montgomery, thirty-three miles. Its physical condition has been improved since the inspection of 1888, especially in its bridging. The truss bridges and their condition are as follows: East of Montgomery is a 122-foot span, new through lattice, with new and strong abutments. The trusses in this bridge have in the construction of their chords a new feature, which adds strength, and there is a grace in the whole design rarely equalled. The chords are channel iron, and double angle bar ribs are placed at points on the flange side, giving the effect of panelled chords. West of Forest Glen is a forty-foot span, wooden Queen truss, in rather poor condition and light design. It is to be superseded by a plate girder this season. West of New Paltz is a newly built plate-deck girder of 105-foot span on newly rebuilt abutments. The floor beams are yellow pine, ten inches square, spaced ten inches. When last examined it was a wooden truss of three spans. East of the same place are two spans of 144-feet each, Phoenix column pin through bridge. The masonry is in good order, and floor lately renewed. Crossing Rondout creek and valley is a sixty-foot span deck Howe truss, and a long viaduct of pin-connected trusses, possibly 100 feet high. The iron piers have been reinforced by bents of yellow pine resting upon piles. During a recent and severe freshet one bent in the bed of creek was partly washed out, and another seriously undermined. If dependence is to be placed on timber bents to support the trusses, a stronger foundation as against floods and ice flow, is necessary. In Kingston there is a span of low through Howe truss, and four spans of through Queen truss on good masonry piers and abutments. The trusses are on a curve over streets. Plate-girders are to replace these wood trusses this year. An improvement has been made in the minor openings, quite as marked as in the longer spans. There are fourteen pile and trestle bridges, of five and the others of three bays each. Four of these are newly

of yellow pine, and the others are in good order. There are eleven single spans from four to ten feet wide, having railroad bar girders; three have new and strong masonry abutments, and three have poor masonry, upheld by timber shoring. Two trestle bridges have been filled, except one opening of ten feet, which has strong abutments and yellow pine stringers. Five trestle openings, two of which had three bays, have been filled, after a box culvert had been provided for drainage. Twenty separate waterways, cattle-passes and under-crossings, have good abutments, some of which are new, and strong timber girders. One trestle has been filled, and an arch culvert built for waterway. Four separate openings over streets and highways have two bays each, from seventeen to twenty-two feet wide. They are strongly maintained, some having new abutments and girders, and one, truss-rods in addition. A trestle approach to a through iron bridge has twelve bays in good order. Masonry piers were being built under the sills of bents. There are a few masonry substructures and one arch culvert which require rebuilding. All cattle-guards have been filled, and slats are to be substituted. The superstructure is in good order. Twenty-seven thousand sleepers were used in renewals in 1889, and 15,000 are to be used this year. As a whole they are in strong life, and track adjustment is very good. Eleven miles of new barbed-wire fence of five strands was built in 1889, and the material is at hand to rebuild the remainder this season. The roadway is neatly kept, and drainage well developed. No change of moment has been made in passenger stations. The depot at New Paltz has been thoroughly overhauled, and is now neat and comfortable.

#### WESTERN NEW YORK AND PENNSYLVANIA RAILROAD.

##### *Main Line,*

Buffalo to Olean and Pennsylvania State line, seventy-eight miles, all single track, except two and a half miles of new second track east of South Buffalo, and six miles of new second track between Hinsdale Junction and the grade crossing of the Erie railroad at Olean, in all eight and a half miles of double track built since the previous inspection. Sixty-seven miles of new steel rail weighing sixty-seven pounds per yard, with new point switches have been laid since that time. Twenty-six inches steel angle bars are used for joint splicing. The road-bed has been widened on the Holland grade, and a large amount of reballasting done. Sleepers have been thoroughly renewed and are now in strong life. All the sidings between Buffalo and the State line have been relaid with the steel rails taken out of the main line, sleepers renewed and the whole are now in good condition, a great improvement since the examination of 1888. The tracks in the large freight yard, at Olean, have been entirely renewed and enlarged by additional sidings. It is a very complete renovation and one much needed. The superstructure on the entire division is well adjusted. There is a large number of short span single openings and a number of trestles and truss bridges, of which sixteen are pile and trestle openings from twenty-six to sixty-three bays each, averaging about fourteen feet span, aggregating 2,100 feet in length. They are all in strong life, five of them new and all of ample strength. There are forty-one separate under-farm crossings, waterways and cattle-guards, from four to ten feet wide, each of which has oak bents all in strong life, except two which need renewal. The lagging in rear of bents is of old car sills six inches thick. There are seventy-seven openings from four to sixteen feet in width, which have good masonry abutments, two of new construction. Thirteen openings from five to sixteen feet each, have double-plated beams resting on good abutments. Five of these are newly built, each of these trestles and single spans has a good floor system, except one four feet width which has the rail on stringers. It is at a point where there is insufficient head room difficult to overcome. Only one short span of fractured abutments, all others are in good condition; a good showing of two years ago. Over Buffalo creek is a through lattice of 128-feet span, the web members, chords and floor beams of which have been enforced to sustain the increased weight of engines. Crossing Cattaraugus creek at Arcade is a 128 feet span, deck Howe truss, eleven

years old. The lower chords have opened at ends of strands and have been reinforced by one strand on one and two on the other truss. The bridge is rather shallow for the length of span, and it is suggested that a new and stronger one be erected. The abutments are in good condition. South of Machias is a sixty-five-foot span plate through girder all in good order. North of Franklinville is a seventy-foot span low through Howe truss having additional truss-rods. The abutments are in good condition and truss appears in fair life. Guard-posts in line of trusses are provided for all through bridges. South of the same place is a 100-foot span through Howe truss, having additional truss-rods, but the timber is quite too old and a new bridge is suggested. South of this is a lattice through 120-foot span, which has been cut in center of truss and diagonals made to conform. A pile-pier has been driven cased with oak plank and filled with stone. South of Ischua is a 125-foot span through lattice, on good masonry abutments. The floor system has been reinforced. South of this are two spans of seventy-nine feet each through lattice, whose web members and floor beams have been reinforced and new floor built. Another two-span low through lattice, south of this, has been reinforced in like manner. All of these iron trusses need repainting. South of Olean is a 126-foot span, new pin-connected through bridge of very strong construction. North of Portville is a sixty-foot span, through Howe truss on bents. A plate girder is to be erected in its place this season. All these truss bridges have excellent masonry substructures except the new oak pile pier referred to. The road-bed is quite neatly graded, ditches well opened and roadway orderly. Much has been done to the fencing since the previous inspection, but more is necessary. All of the depots were examined, and each found in very good order, and most of them neatly kept. Franklinville has been newly painted and furnished. Machias waiting-room wants repairing, but has been painted outside. A new frame depot has been erected at Holland. No change has been made at the Buffalo terminus. It is cleanly but unsuitable.

*Buffalo, Brocton and Pennsylvania State Line.*

This division is about eighty miles in length. It has not been changed in its outline since 1888. Between Brocton and Buffalo Creek junction, about forty-five miles, the line is parallel and adjoining the New York, St. Louis and Chicago railroad, both together forming a double track, but operated independently. In the Report for 1888, pages 260 and 261, a detailed statement of the trestle and pile bridges along these parallel tracks is given. Many of these structures have bents in common, that is, the sills and caps extend under both tracks. Some of these were found in very poor condition, but since that time all defective trestles have been reconstructed. Between the State line and Brocton are fifty-six single span trestles, from four to six feet wide, with lagging in rear of the bents. A number are newly built and a few are too old. Each has a good floor system, except some which have four-inch plank for ties. As a whole they are in good condition. Between the same points are seven openings of a like kind, which have masonry abutments of a fair character of work. There are eleven trestle bridges, from two to twenty-eight bays each, aggregating 1,500 feet in length. West of Sherman is a sixty-foot span low through Howe truss, with good abutments. The chords of trusses are covered with galvanized iron. West of Clymer is a similar bridge; both these bridges are sixteen years old, but the timber looks to be sound. Between Brocton and Buffalo there are thirty pile and trestle bridges from two to one hundred and twenty bays each, aggregating about 6,500 in length, nearly all of which have new bents, stringers and floors. number have old stringers which are to be renewed this season. There are thirty-three single openings from five to ten feet wide, which have most oak bents and new floors. Six small waterways have docking abutment and eight bays of trestle have lately been filled. Of the single spans there are about fifteen on the Buffalo flats, which have piles driven in rear of bent on which to place new girders and ties. The Lake Shore road has filled number of openings opposite these, and as yet it is not determined whether they be rebuilt or filled. In the Silver Lake trestle there are two separate deck Howe trusses, over streets, which have been rebuilt the

year. At Silver Creek is a crossing over a highway of seventy feet span through lattice, and a nineteen feet span through plate-girder, all on good masonry abutments. Over Eighteen-mile creek is an iron viaduct, 690 feet long, and 104 feet high. It has good masonry abutments and pedestals, and strong new floor. West of the same are two separate low through pin bridges of forty-feet spans, each having a new floor. It would be better if the iron work of these bridges had a fresh coating of paint. There has been manifest improvement in the superstructure since the last inspection. Considerable ballasting has been done, especially between Brocton and Mayville. Renewals of sleepers have been increased and they average much stronger life. The surface and line of track has been improved, the sidings are in better condition, and all sharp curves are well rail-braced. The stations and buildings are as before reported. Mayville depot has been painted, and the long platform fronting the station and steamboat wharves has been replanked.

*Olean to Pennsylvania State Line via Salamanca,*

A single track road along the Allegheny river, thirty-five miles in length, laid with steel rails and angle bar fastenings. The sleepers are generally in strong life, road-bed very well drained, and track well adjusted. There is but a little ballast. There are a number of pile and trestle bridges, most of them, recently rebuilt. They are from one to 140 bays, of fourteen feet each, aggregating 3,400 feet in length. Over the Allegheny river are two spans of 159 feet each, through Howe truss, too light for weight of engines, to be replaced by iron bridging. A seventy-feet span, similar bridge is in good condition. East of South Carrollton are two spans of forty feet each, through Howe truss, in good order. West of Red House is a Howe through truss, 102-feet span, on bents at second panel points. It is too light and new trusses are suggested. Another bridge of the same span, west of Quaker Bridge, has reinforced lower chords. Bents have been placed at first panel points, as the bridge is too light. Near the State line is a fifty-feet span deck Howe truss, having some defective members. Repairs have subsequently been made. All of these bridges have good masonry substructures. There are two plate through girders of thirty feet each in good order. There are ten waterways of eleven to nineteen feet in width, having timber stringers in fair life, and good masonry abutments. The roadway is mostly inclosed with wire fencing. No changes have been made in the passenger and freight depots, which are combined. Each was in good order and clean.

*Honesdale junction to Rochester,*

Single track, 101 miles long, and mostly lies on the towing-path of the old Genesee Valley canal. There is a branch connecting with the New York Central road, from a point in the main line a little south of Rochester to Lincoln Park, about two and one-half miles long. Another branch, two miles long, to Nunda, is operated by this company. (It is a single-track road laid with iron rails and fish-plate fastenings. A trestle of 150 feet in length has been filled, and a pile-bridge of four bays rebuilt. The superstructure is in fair condition. The branch is much neglected and but little used.) The track is laid with steel, eleven miles of which has been renewed during the present season. The sleepers have not been as thoroughly renewed as on the main line or the Pittsburg division. Many hemlock sleepers still remain, and stretches of track were seen where the general life was insufficient, especially at sharp curves where the ties should be stronger. The rail is in good order, except on the outside of sharp curves, where, in a number of instances, it is too much worn. Portions of the road-bed are very well ballasted, especially on the northerly end, but there is considerable road with nothing but common earth under the sleepers. Generally the track adjustment is good and some sections have a fair line and surface. There has been some renewal of pile and trestle bridging. At the crossing of Ischua flats, near Hinsdale, are forty-seven bays of new pile and trestle bridge and over the creek eight bays of new pile trestle on a sharp curve which leads on to the bank of the canal. These bridges are strongly constructed and the curve has an inside guard-rail. Nearly all cattle-guards have been filled and slats substituted. North



of Black creek is a new plate deck-girder of thirty-four-feet span over the canal feeder, where was a forty-feet span spur braced girder. North of Nunda junction is a new twelve-feet chord arch culvert. South of Tuscarora is a new through lattice of ninety-feet span, where was a Howe truss. South of Pifford is a twelve-feet span waterway, which has new abutments. South of Cuba is a low through Howe truss of sixty-feet span in fair life, and has reinforced lower chords. North of Orwell are two spans of low through Howe truss, sixty-four feet each, on pile abutments and piers. They have reinforced truss-rods and lower chords. North of Houghton is a sixty-feet span similar truss, in which is too old timber. The lower chords have been reinforced. North of Ripley is a similar truss of sixty-feet span in only fair life. The truss-rods have been reinforced. At Portage City, crossing the Genesee river, are five spans of fifty feet, and one span of ninety-six feet deck-Howe truss. The long span has reinforced lower chords. The whole is only in fair life. North of Tuscarora is a thirty-feet span low through Howe truss, with floor beams suspended, one of which is broken. A reinforcement of floor is suggested. North of this is a 100-feet span through Howe truss in good condition. South of Sonyea is a ninety-feet similar span in fair order. North of Mount Morris is a forty-feet span deck Howe truss in good order. North of this are three spans of through Howe truss, 140 feet each, crossing the Genesee river. The lower chords are reinforced. These trusses are only in fair life; one of them is seven years old. South of Cuylerville is a fifty-feet span through Howe truss, same age as the last. A new bridge will soon be necessary. North of Scottsville is an eighty-feet span through Howe truss, in good order. All these truss bridges, except the one noted, have good masonry substructures. North of Cuba is a ten-feet span waterway, having fractured masonry abutments, and girders rest on bents. South of Fillmore is an eight-feet span in like condition. On a side hill north of Portage the clay slope is sliding down to bottom of the ravine, in which is the Genesee river. Two pile bridges, each about 400 feet in length, are driven across these slides, and as occasion requires, the track is thrown towards the hill. New piles have been driven and track thrown on to them as the old piling had moved too far down hill, and out of correct line. This is at a point where great trouble was experienced to keep open the old canal. The hill is about 300 feet above grade of the track, and bottom of ravine is about 150 feet below. North of Sonyea is an eight-feet span waterway, whose abutments are undermined, and pile bents have been driven inside. North of Fowlerville are two spans of waterway, one six and the other ten feet wide. They have good oak bents and double-rolled beam girders. Besides the foregoing there are sixteen pile and trestle bridges, from one to fifty bays each, aggregating 1,030 feet in length; two waterways, one of ten feet and one of two spans of fifteen feet each, having good masonry abutments and double, rolled-beam girders; also seventeen waterways, from four to ten feet each, which have good masonry abutments and strong timber girders. All openings have a good floor system of ties and spacing ribbons, and many have inside T-rail guards. Each of the passenger stations was examined. Black Creek is a newly-located depot. It has a frame building, freight and passenger combined, as are all the local stations. The other stations are as before reported, most of them in fair condition. At Rochester a decided and much-needed improvement has been made. The old station has been removed and a new site, fronting Exchange street, has been purchased, including a large brick dwelling, which has been remodelled into a convenient passenger waiting and baggage-room. A neatly designed covered-way runs from the waiting-room and along the sides of tracks. Where was the old station is now a brick freight-house, with two inside tracks, sufficient to hold eight cars. In the yard adjoining are sidings for car load freights. The whole minus is convenient and practical.

#### *Narrow-gauge Division,*

Olean to Pennsylvania State line. A three-foot gauge road, twelve miles which is in this State. The line passes through an oil district. It is very sharp curvatures, often quickly reversing, and steep grades. There are twenty separate pile and trestle bridges, from four to thirty bays each.

aggregating 4,500 feet in length. The bents and ties are of hemlock, and stringers of pine. Ten of these trestles, aggregating 2,200 feet, have been rebuilt since 1887 and none of the others exceed six years in use. Over the Allegheny river are two spans of Post through combination bridges of 130 and 170-foot lengths, resting on pile abutments and pier. The timber looks fair, but a renewal of the longer truss appears to be necessary. Considerable of the rail is much worn, especially on curves. Occasionally the head of a rail on flange side was broken. The sleepers are for the most part in good life, road-bed well drained and track in fair line and surface. The depot at Knapp's creek has been painted and renovated. At State Line is a crude but comfortable depot. The road has very little traffic.

[For report to which this letter relates, see page 198.]

OFFICE ADDISON AND PENNSYLVANIA R. R. Co., }  
NEW YORK, November 8, 1890.

To the Board of Railroad Commissioners:

Your letter inclosing report of your engineer, on the condition of the Addison and Pennsylvania Railway Company was duly received, and the recommendations made by you have been submitted to the general superintendent, who reports to me that I can advise your Board that their recommendations are being carried out.

Yours truly,

T. C. PLATT, President.

[For report to which this letter relates, see page 200.]

OFFICE BRADFORD, ELDBRED AND CUBA R. R. Co., }  
NEW YORK, November 8, 1890.

To the Board of Railroad Commissioners:

I beg to acknowledge receipt of your letter of the twentieth ult., containing the report of Inspector Spencer upon the condition of the Bradford, Eldred and Cuba railroad, of which I am the receiver. That report has been transmitted to F. M. Baker, agent for receiver, who has been giving the matter the attention it deserves, and I beg to inform the Commissioners that their recommendations are being carried out.

Yours truly,

T. C. PLATT, Receiver.

[For report to which this letter relates, see page 219.]

OFFICE NEWBURGH, DUTCHESS AND CONNECTICUT R. R. Co., }  
MATHEWAN, DUTCHESS Co., N. Y., November 6, 1890.

To the Board of Railroad Commissioners:

I beg to acknowledge the receipt of your letter of the twenty-eighth ultimo, covering the Inspector's report.

Referring to the defects to which attention is called in his report, I have to say that two miles of steel rails have been laid and the best of the iron rail thus relieved has been used in removing the most worn rails in the remaining nine miles, making that portion of the track good. About 8,000 new ties have been put in to date, since the inspection was made. Most of the openings referred to have been put in order, and the others have been made perfectly safe. New ties and stringers have been put on all openings that Mr. Spencer suggested needed them, and several others have been renewed. The trestles, one near Dutchess junction and one near Millbrook are now being filled. The trestle at Bangall will be strengthened shortly. The road has been considerably improved since the inspection was made, in ballasting the track, widening the cuts and ditching.

Respectfully yours,

JOHN S. SCHULTZ, President.

[For report to which this letter refers, see page 241.]

OFFICE NEW YORK AND SEA BEACH R. R. Co., }  
NEW YORK, December 1, 1890.

To the Board of Railroad Commissioners:

DEAR SIR—I have received your favor of November twenty-ninth, inclosing proof of the report of the Commission's inspector, upon the physical condition of this railroad last spring.

I beg to say that the inspection was made just before the time at which it is our custom to put the track in perfect condition after the winter for the busy summer season. In the regular course of events the crossing at Bath junction was replaced before the opening of our busy season and the approaches to the pile bridge at Gravesend were strengthened and filled in, this work having all been completed about five months ago.

I remain, dear sir, very truly yours,

ALBICK H. MAN, Managing Director and Treasurer.

[For report to which this letter refers, see page 245.]

OFFICE STATEN ISLAND RAPID TRANSIT R. R. Co., }  
NEW YORK, December 1, 1890.

To the Board of Railroad Commissioners:

DEAR SIR—Yours of the twenty-ninth ult., with copy of report of the inspector, as to physical condition of our road, is at hand. The two miles of iron rails referred to were on out of the track last summer and steel rails substituted for them. We hope to have our road in first-class condition for the next inspection.

Yours truly,

J. F. EMMONS, President.



## MINUTES OF THE BOARD.

REPORTED IN PURSUANCE OF SECTIONS 2 AND 10 OF CHAPTER  
353, LAWS OF 1882.

OCTOBER 7, 1889.

The Board met pursuant to adjournment. All present.

The minutes were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Western New York and Pennsylvania Railroad Company, accompanying tracing of railroad lines about Nunda. Ordered filed.

Letter of John D. Kernan, for Utica Belt Line, asking examination of books of company, prior to stockholders' meeting. Ordered, that the accountant be instructed to examine the financial condition of the Utica Belt Line Railroad Company and ascertain the cost of its construction and equipment and report the same to the Board.

Report of the Inspector, Thos. W. Spencer, on the Rye and Mamaroneck stations on the New York, New Haven and Hartford railroad. Ordered, that Secretary write that the complaint preferred by Mr. Peck seems to be well founded and ask what the company intends to do in the matter and why the recommendation of the Inspector should not be made the recommendation of the Board.

Application of the Rochester and Lake Ontario Railroad Company for permission to suspend operations during the winter months. Ordered, that hearing be set down for Tuesday, October 15th, 10 A. M., and the same be advertised.

Application of Pullman Palace Car Company for extension of time in which to heat cars with steam-heating apparatus. Ordered granted, and copy of permission sent.

Letter of Frank J. Cassada, sheriff of Chemung county, as to use of supervisors' room, court-house, at Elmira, on 15th inst. Ordered filed.

Application of Kaaterskill Railroad Company for permission to suspend operation during winter months. Ordered hearing set down for October 15th, and same be advertised.

Letter of Long Island Railroad Company, relative to complaint of J. Oppenheim. Ordered, copy be transmitted to complainant.

Letter of W. F. Rowe, relative to rates on baggage. Ordered, that Secretary reply: First, that the Board repeats its statement that it can not give an opinion on so defective a statement of facts; second, that the law provides that each traveler is entitled to carry 100 pounds of baggage free of extra charge. Over and above that amount no definite rate is fixed.

Complaint of Titus, Wells & Willis. Ordered usual course.

Application of the Albany railway company for designation of newspaper in which to publish notice of stockholders' meeting. Ordered paper designated, and that accountant examine and report as to the cost of construction and equipment since last examination.

Ordered, that Monday, October 15th, 10 A. M., be set down for hearing of the accident on New York Central railroad at Canajoharie, September 27, 1889, and that Secretary notify the company that it requires the presence of Superintendent Bissell and the conductor, engineer, rear brakeman of first section of No. 5, and the conductor, engineer, and fireman of second section No. 3, and the person attending the indicator at Yost station, together with a sworn statement at the time the respective sections passed the stations between Schenectady and Yost and of any others the company desire to be heard.

Messrs. Fowler, general counsel, and General Opdyke of the Central New England and Western Railroad Company, were heard in application for an extension of time in which to equip cars with steam-heating apparatus until November 1st. Granted, and order of approval ordered issued.

Commissioner Rogers submitted a reply to the letter of statistician of Interstate Commerce Commission. Ordered sent.

The Board adjourned until October 8th, 10 A. M.

OCTOBER 8—10 A. M.

Commissioner Rickard called up the application of the Seneca Falls and Cayuga Railroad Company, to suspend operation from November to May, and moved that granted from 15th day of November to 15th day of May. Carried.

Board adjourned to October 14th, 2 P. M.

WILLIAM C. HUDSON

Sec

OCTOBER 14, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Board heard the Hon. John D. Kernan, counsel for the Utica Belt Line Company, in an application for an increase of capital stock.

The Board heard Mr. Charles E. Patterson for the Commercial Telephone Company of Troy, Mr. George H. Pitts, attorney for the city of Cohoes, and Mr. D. M. Niver, counsel for the Troy and Lansingburgh Railroad Company, in the matter of an application of the Troy and Lansingburgh Railroad Company for leave to change its motive power, and took testimony upon the same.

The Secretary submitted the unfinished and new business, under the rules, as follows: Letter of C. M. Depew, president of the New York Central and Hudson River Railroad Company, accompanied by report to above; of J. D. Layng, general manager of the West Shore Railroad Company, being answer to complaint of Titus, Wells & Willis, and letters from complainants announcing the rescinding of the order giving rise to the complaint, and therefore ending the cause of complaint. Ordered case closed.

Answer of Delaware and Hudson Canal Company to complaint of Mr. McMahon. Ordered usual course.

Application of the Rochester and Glen Haven Railroad Company for leave to suspend operation during the winter months. Ordered that hearing be set down for Monday, October 21st, at 2 P. M., and notice of same be published.

Letter of George D. Chapman in answer to letter of E. D. Mahoney, president Lackawanna and Southwestern Railroad Company, relative to non-operation of Nunda branch. Ordered that letter as dictated be sent to Mr. Allen.

Application of Crown Point Iron Company, to be relieved from the necessity of making reports to Board. Ordered referred to Commissioner Rogers.

Letter of Messrs. Fitch and Coykendall, relative to complaint of J. M. Rae, of Elmira. Ordered filed.

Letter of Jno. W. Church, counsel, relative to complaint of Village of Norwich against Delaware, Lackawanna and Western Railroad Company. Ordered carried on file until the expiration of thirty days.

Letter of Goldsmith & Tuthill, being reply to Long Island Railroad Company's answer to their complaint of discrimination. Ordered referred to Commissioner Baker.

Letter of Rome, Watertown and Ogdensburg Railroad Company, being answer of company to complaint of citizens of Ontario. Ordered usual course.

Letter of H. W. Webb, vice-president Wagner Palace Car Company, asking further extension in which to answer complaint of Wm. Savage Burns. Granted.

The Board took a recess until 8 P. M.

8 P. M.

Mr. C. M. Blissell, division superintendent New York Central and Hudson River Railroad Company, was examined in the matter of accident occurring east of Sprakers on night of 27th September.

Board adjourned until October 15th, 10 A. M.

OCTOBER 15—10 A. M.

The Board met.

Mr. Jones, superintendent Kaaterskill Railroad Company, was heard on application for leave to suspend operation during winter months. Ordered granted.

The Board examined Conductor Abell and Engineer Weeks and Rear Trainman Patten and Front Brakeman Aldrich, of section one of No. 5; Conductor Dillon and John Slater, fireman, and Rear Brakeman Mabey, of section two of No. 5; also J. Switz, night watchman at Yosts, were heard in matter of accident near Sprakers on night of 27th September.

The Board proceeded to city hospital and took the testimony of Engineer Horth of said section two, train No. 5.

The Board heard Mr. Davies, counsel of Rochester and Lake Ontario Railroad Company, in favor of, and W. E. Sauters, supervisor of town of Irondequoit, in opposition to the application of above company to suspend operation during winter months.

The Secretary submitted complaint of town of Phillipstown, Putnam county, against a dangerous crossing at "Breakneck tunnel," on the New York Central and Hudson River Railroad. Ordered usual course.

Letter of R. H. Henry, auditor Delaware and Hudson Canal Company, submitting the question as to how moneys expended for construction by lessee company for which lessor is not to reimburse the lessee should be charged. Ordered that he be informed that lessee should report such expenditure according to letter on file.

Letter of J. M. Rae, suggesting that H. E. Rockwell, city attorney, Mr. Davison, mayor, and the aldermanic committee on flooded district be notified of the hearing on the 16th. So ordered.

Report of the inspector on map of the flooded district at Elmira. Ordered filed.

Letter of C. H. Allen, President Western New York and Pennsylvania Railroad Company, relative to fiscal year ending September 30th. Ordered that Secretary write that Board has never expressed an opinion on the subject.

Board adjourned until Monday, October 21, 2 P. M.

WILLIAM C. HUDSON,  
Secretary.

OCTOBER 21, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the protest of Walter Wood and Catherine G. McIntyre, against granting leave to the Rochester and Glen Haven Railroad Company to suspend operation during winter months, and the Board heard Mr. Maurer, counsel to company. Granted, and the order as directed ordered issued.

Also communication of Messrs. Wood, Coggeshall and Van Buskirk, as a committee of residents of Cayuga, relative to proposed abandonment of the Ithaca, Auburn and Western railroad, and the Board heard the committee on the same.

Application of the Buffalo East Side Street Railway Company for leave to change its motive power to electricity. Ordered, that a hearing be set down for 10 A. M., Tuesday, 29th, and advertised, and Secretary write company it will require a certified copy of the consents of abutting property owners.

Letter of C. M. Bowles, relative to operation of Harlem railroad. Ordered, substance of it be communicated to the Harlem company.

Complaint of Esther B. Marks as to the non-operation of and care of the Morrisania and Fordham railroad. Ordered usual course, and the company be asked why the Board should not report the facts set forth to the Attorney-General.

Letter of John L. McMahon, relative to his complaint against the Delaware and Hudson Canal Company, on rates on empty kerosene barrels. Ordered, that Secretary write that Board does not know what rates are, and that he can ascertain that fact from his agent.

Letter of Lewis Williams, relative to car heating. Ordered, that Secretary write that Board knows of no exemption except those provided in the law, and that if the company runs its cars as suggested it will do so at its own risk.

Letter of C. H. Allen, relative to operation of Nunda branch. Ordered, copy sent to Chauncey Hagadorn, C. Peck and others.

Letter of J. W. McMahon, as to Devereaux station. Ordered, usual course.

Petition of residents of towns of Corning and Big Flats. Ordered, usual course.

Briefs of Commercial Telephone and Troy and Lansingburgh Railroad Companies. Ordered filed.

Report of the accountant as to the financial condition of the Utica Belt Line Railroad Company.

The Board adjourned to October 22d, 10 A. M.

OCTOBER 22, 1889.

The Board met at 10 A. M. and heard Mr. Taylor for remonstrant, Mr. Davies for Rochester and Lake Ontario Railroad Company, in the matter of the application of the company for leave to suspend operation during the winter months.

Leave was granted to Geo. H. Fitts, of counsel for city of Cohoes, for an extension of time in which to file his brief in the matter of the application of the Troy and Lansingburgh Railroad Company, for leave to change its motive power, upon the representations of the company's counsel, that we agreed to the same.

Board adjourned until Monday, October 28th, 2 P. M.

WILLIAM C. HUDSON,

Secretary.

OCTOBER 28, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business as follows:

Brief of Geo. H. Fitts, city attorney of Cohoes, against the Troy and Lansingburgh Railroad Company, in the latter's application to change its motive power. Ordered filed.

Affidavits and map from McNaughton and Taylor in opposition to the application of the Rochester and Lake Ontario Railroad Company for leave to suspend operation during the winter months. Ordered filed.

Letter of Hoadly, Lauterbach & Johnson, requesting the return of certain books in the Third Avenue railroad change of motive power case. Ordered books sent.

Letter of C. M. Bissell, relative to appearing before Board in Albany depot matter. Ordered filed.

Letter of J. M. Toucey, New York Central Railroad Company, relative to highway crossing at Cold Spring. Ordered usual course.

Letter of Goldsmith & Tuthill, relative to their complaint against the Long Island Railroad Company. Ordered usual course, and letter and answer to be sent Commissioner Baker.

Letter of Charles P. Clarke, relative to Mamaroneck station. Ordered usual course. Petition from residents of Rochester against the suspension of the Rochester and Lake Ontario railroad. Ordered filed.

The Secretary submitted the letter of J. E. Childs, assistant general manager of the Shore and Michigan Southern railroad, asking approval of Board of dining-car. Ordered, letter sent as dictated.

The Board adjourned until October 29th, 10 A. M.

WILLIAM C. HUDSON,

Secretary.

OCTOBER 29, 1889.

The Board met at 10 A. M. All present.

The Board heard Counsellor Bushnell and President Watson of the Buffalo Street Railroad Company, in the matter of their petition for leave to change motive power on Forest avenue, Buffalo. Counsellor DeWitt and Michael Healey opposed the application.

The Secretary submitted the letter of W. H. Bowman, relative to the Rochester and Lake Ontario railroad suspension of operation case. Telegram was sent him saying that the Board would be in Albany November 7.

Letter of C. F. Wolters relative to Rochester and Lake Ontario railroad. Ordered filed.

Letter of H. M. Thompson, secretary Brooklyn City Railroad Company, asking for designation of paper in which to publish notice of stockholders' meeting to vote on increase of capital stock. Ordered that Brooklyn Eagle be designated.

Letter of C. M. Depew, inclosing answer to complaint of C. M. Bowles against the Harlem Railroad Company. Ordered usual course.

Letter of Henry G. Danforth, counsel, inclosing answer to the complaint of J. W. McMahon against the Buffalo, Rochester and Pittsburgh Railroad Company. Ordered usual course.

Letter of H. McGonegal, relative to the Auburn and Owasco Lake Electric Railway Company. Ordered letter sent as dictated.

Letter of James F. Mann, president Utica and Mohawk Railroad Company, relative to issue of bonds by railroads. Ordered letter sent as dictated.

Letter of John King, president New York, Lake Erie and Western Railroad Company, relative to collision. Ordered filed.

Communication from J. W. Hutt, superintendent National Express Company, answering complaint of Fitch Battery and Electric Company. Ordered filed, and letter sent the Fitch Battery and Electric Company that the article shipped appears to have been very bulky and it does not seem to the Board that the charge was excessive for the space occupied in the car.

Commissioner Rogers submitted a report on the Troy and Lansingburgh railroad's application for permission to change motive power in Cohoes. Adopted and ordered issued.

Adjourned until Thursday, November 7th, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

NOVEMBER 7, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Board heard W. H. Bowman of Rochester, in advocacy of the application of the Rochester and Lake Ontario Railroad Company for leave to suspend operation during the winter months.

Also, Messrs. John W. McNamara, A. Bleecker Banks, James H. Manning and John H. Farrell, in the matter of the application of The Albany Railway for an increase of capital stock from \$275,000 to \$750,000.

The Secretary submitted the business, under the rule, as follows:

Answer of the Harlem Bridge, Morrisania and Fordham Railway Company to the complaint of Esther B. Marks. Ordered, that a copy of the reply be sent to complainant, and that the Secretary write to the Commissioner of Public Works, that the company allege as a reason why the road was not operated on One Hundred and Thirty-eighth street, between North Third avenue and Mott avenue, was that the draw-bridge over the Mott Haven canal, alleged to have been constructed by private parties, is in an unsafe condition, and ask the Commissioner what, if any, action is proposed to be taken to compel the parties responsible for the bridge to put it into a proper condition.

Letter of Charles Parsons, Jr., Vice-president Rome, Watertown and Ogdensburg Railroad Company, relative to the ruling of the Board in the Forest Lawn accident. Referred to Commissioner Rogers.

Letter of the Catskill Mountain Railway and Cairo Railway Companies, applying for leave to suspend operations from the 14th of December, 1889, to the 15th of June, 1890. Ordered that hearing be set down for Monday, November 18th, and that same be advertised.

Reply of the highway commissioners of Phillipstown, to answer of New York Central and Hudson River Railroad Company to the commissioners' complaint as to the inadequate protection of the Breakneck Tunnel crossing. Ordered copy sent to the company.

Letter of Chas. M. Bowles, relative to delays upon the New York, New Haven and Hartford railroad. Ordered filed.

Letter of John W. Church, relative to complaint of Trustees of the Village of Norwich against the Delaware, Lackawanna and Western Railroad Company. Ordered filed.

Letter of John King, president New York, Lake Erie and Western Railroad Company, being answer to complaint of residents of Corning and Big Flats. Ordered usual course, and that the papers be sent to the inspector and he be written asking how soon he will be through with inspection reports and how soon he would be able to visit Big Flats.

Letter of R. H. Huntington, asking for exemption of the Kinderhook and Hudson Railroad Company, which had only barely begun construction at the close of the last fiscal year. Ordered granted.

Letter of T. E. Cross, complaining of the inefficiency of the cattle-guards and guard fences north of Comstocks, on the Delaware and Hudson railroad. Ordered usual course.



Letter of S. B. Opdyke, general superintendent Central New England and Western Railroad Company, informing the Board that its cars were equipped with steam heating apparatus. Ordered filed.

Letter of John King, president New York, Lake Erie and Western Railroad Company, relative to complaint of G. W. Hall, of Elmira, as to coal pockets. Ordered copy sent to complainant.

Letter of John King, relative to the complaint of Stebbins & Utter. Ordered copy sent to complainant.

Briefs of both sides in the matter of the application of the East Side Buffalo Street Railway Company was submitted.

Pending consideration the Board adjourned until November 8th, 10 A. M.

#### NOVEMBER 8 — 10 A. M.

The Board met. All present.

The Board heard Mr. A. Bleecker Banks in the matter of the application of the Albany Railway Company, who submitted the estimated cost of changing motive power.

Commissioner Rogers submitted a report in the matter of the Rochester and Lake Ontario Railroad Company, for leave to suspend operation during winter months denying the same. Adopted, and ordered printed and issued.

Ordered, that the letter as dictated, submitting the question as to the authority of the board of managers of the Buffalo Asylum for the Insane to sign consent, be sent to the Attorney-General for opinion, pending which the matter of the application of the Buffalo East Side Railroad Company be laid on the table, and that the Secretary write the company to the above effect.

Ordered, that accountant be instructed to examine the financial affairs of the Brooklyn City Railroad Company, and ascertain its cost of construction and equipment.

Ordered, that the application of the Albany Railway Company for an application for increase of capital stock from \$275,000 to \$500,000, be granted, and that the report as submitted be issued.

Board adjourned until Monday, November 11th, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

#### NOVEMBER 11, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the business, under the rule, as follows:

Letters of McNaughton and Taylor and C. C. Davy, relative to the application of the Rochester and Lake Ontario Railroad Company to suspend operations during the winter months. Ordered filed.

Communication of the Attorney-General, being answer to the request of the Board as to the power of the managers of the Buffalo State Asylum for the Insane, to give consent to a change of motive power on the part of the Buffalo East Side Street Railroad Company. Ordered that the report as dictated be issued as the decision of the Board.

Reply of J. W. McMahon to answer of the Buffalo, Rochester and Pittsburgh Railroad Company, to complaint of former. Ordered, that hearing be set down for Tuesday, November 19th.

Letter of C. M. Depew, accompanied by report of J. M. Toucey, relative to the Yeast accident.

Commissioner Rogers submitted a report on the same subject. Adopted and ordered issued.

The Board adjourned until Monday, November 18th at 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

#### NOVEMBER 18, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Board heard Mr. A. Hill for remonstrants, and Mr. G. A. Beach for the company, in the matter of the application of the Catskill Mountain Railway Company for itself, and the Cairo Railroad Company, to suspend operation during the winter months.

Commissioner Rogers submitted a report in the matter above mentioned. Adopted and ordered issued.

The Secretary submitted the business, under the rule, as follows:

Letter of Frank S. Smith, asking designation of paper in which to advertise meeting of stockholders of the Allegany and Kinzua Railroad Company, to vote upon the proposition to increase their capital stock from \$80,000 to \$100,000. Paper ordered designated.

Letter of Chauncey Hagadorn, relative to the non-operation of the Nunda branch. Ordered, Secretary write the president of the Western New York and Pennsylvania Railroad Company, that having been informed that, substantially, no work has been done toward the putting of the branch in operation, the Board desires a definite answer when the branch will be in an operating condition.

Letter of H. W. Webb, being answer to complaint of William Savage Burns. Ordered usual course.

Letter of T. E. Cross, being reply to answer of Delaware and Hudson Canal Company to complaint of former. Referred to Commissioner Baker.

Letter of G. T. Rogers asking for designation of paper in which to publish notice of stockholders' meeting of Binghamton Central Railroad Company to vote on proposition to increase capital stock from \$30,000 to \$40,000. Ordered, paper designated.

Application and withdrawal of application of the Broadway Railroad Company for change of motive power.

Letter of J. E. Childs, assistant general manager, relative to approval of ranges in cars. Ordered, Secretary write that the company having complied with requirements of the Board, and having made the improvements, the Board considers you have its approval.

Letter of W. J. Brown relative to railroad crossing on his farm near Whitehall. Ordered, usual course.

Commissioner Baker submitted a report in the matter of Goldsmith & Tuthill against the Long Island Railroad Company. Adopted and ordered issued.

Adjournment taken until Tuesday, November 19th, 10 A. M.

#### NOVEMBER 19—10 A. M.

Board met. All present.

The Board heard Henry G. Danforth, for the company, and J. W. McMahon, for himself, in the matter of the complaint of McMahon against the Buffalo, Rochester and Pittsburg Railroad Company.

Letter of M. McElroy relative to block device. Ordered filed with improvement.

Letter of H. Hill relative to application of Catskill Mountain Railway Company to suspend operations for winter months.

Board adjourned until November 26th, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

#### NOVEMBER 25, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the business under the rule.

Letters of department of public parks, accompanied by report of engineer of construction of the Twenty-third and Twenty-fourth wards, and of Esther Marks, relative to the railroad on One Hundred and Thirty-eighth street, New York city. Ordered, that the letter as dictated, copy of which is on file, be sent.

Letter of G. C. Northrup, relative to the suspension of operation of the Conesus Lake branch by the New York, Lake Erie and Western Railroad Company. Ordered, Secretary write that Board has not given permission, but will entertain a petition and send copy of letter to company.

Letter of Thos. Aspenleiter, secretary American Eagle Club, thanking Board for its decision in the Rochester and Lake Ontario Railway Company. Ordered filed.

Letter of Stebbins & Utter, announcing that the New York, Lake Erie and Western Railroad Company had remedied their grievance. Case ordered closed.

Letter of D. C. Robinson and J. A. Gibbons, relative to complaint of J. M. Rae. Ordered, letters as dictated, copies of which are on file, be sent.

Letter of Jno. E. V. Haring, highway commissioner, relative to bridge of New York, Lake Erie and Western Railroad Company at Blauvelt, N. Y. Ordered filed and case closed.

Letter of F. C. Peck, of Nunda, relative to non-operation of Swain's branch. Ordered, that letter as dictated, copy of which is on file, be sent to the president of the Western New York and Pennsylvania Railroad Company.

Letter of Union Switch and Signal Company, relative to block system. Ordered, Secretary write that the Board meets every Monday afternoon and would be glad to see Mr. R. H. Soule at his convenience.

Letter of Thos. C. Miles, relative to improvement. Ordered filed.

Letter of Wm. F. Coatar, as to signal lights. Ordered filed.

Letter of William Savage Burns, being reply to answer of Wagner Palace Car Company to complaint of former. Ordered laid on table.

Commissioner Rogers submitted a draft of the annual report, and moved that the Board go into executive session on the same.

In open session, the Board adjourned until Monday, December 2d, 1889, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

#### DECEMBER 2, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the business, under the rule, as follows:

Letter of C. H. Allen, president of the Western New York and Pennsylvania Railroad Company, relative to the non-operation of Swain's branch. Ordered, that letters to Allen and to Mr. Peck as dictated, copies of which are on file, be sent.

Application of the Brooklyn City Railroad Company for an increase of capital stock from \$3,200,000 to \$6,000,000. Henry M. Thompson, secretary of the company, was heard in the matter. Granted.

Letter of C. R. Parsons, mayor of Rochester, and John A. Barhite, secretary of committee, asking Board to visit Rochester and inspect the matter of alleged dangerous crossings. Ordered, that Board notify the parties that Board will visit the city December 18th, 10 A. M.

Letter of Delaware and Hudson Canal Company, relative to complaint of W. J. Brown. Ordered, Secretary send a copy of John Nolan's letter.

Letter of J. M. Toucey, general superintendent of the New York Central and Hudson River Railroad Company, relative to the dangerous condition of Breakneck crossing. Ordered, that Secretary send copy of letter to complainants.

Letter of Henry J. Sullivan relative to height of bridges over railroad tracks. Ordered, Secretary write that no statute exists fixing the height of bridges over railroad tracks, but the Board has recommended that the height should be not less than twenty feet; that Board is not sufficiently familiar with the localities as would justify a departure from the rule, but as the Board will be in Rochester on the 18th inst., it will look at the crossings, if desired.

Letter of G. C. Northrup, relative to inspection of Lake Conesus branch. Ordered filed.

Letter of Potter & Williams, relative to rates from Guelph, Ontario, to New York city. Ordered, Secretary write that it is a matter for the consideration of the Interstate Commerce Commission and without the jurisdiction of this Board.

Letter of William Savage Burns relative to fares charged by Wagner Palace Car Company. Ordered, that Secretary be instructed to present the matter to the Attorney-General and to ask whether, in his opinion, the company is violating law.

Letter of Charles F. Davidson, mayor of Elmira, relative to the complaint of J. M. Rae. Ordered filed.

The Board adjourned until 9.30 A. M., December 3d.

#### DECEMBER 3—9.30 A. M.

The Board heard Messrs. Norton and Healey relative to the rehearing of application of the East Side Railroad Company to change its motive power on Forest avenue.

Commissioner Rogers submitted a report in the matter of the application of the Brooklyn City Railroad Company granting, as asked for, an increase of capital stock. Adopted and ordered issued.

Commissioner Baker submitted a report in the matter of the complaint of T. E. Cross against the Delaware and Hudson Canal Company. Adopted and ordered issued.

The Board went into executive session upon the annual report.

In open session the report was adopted.

Commissioner Rogers reported verbally an interview with General Carr, representing the Troy and Lansingburgh Railroad Company, relative to the approval of poles for stringing wires. Ordered, Secretary write and ask why they had not made appearances as agreed.

The Board adjourned to meet at the Chamber of Commerce, New York city, on Monday, December 9th, 1889, at 10 A. M.

WILLIAM C. HUDSON,

*Secretary.*

#### DECEMBER 9, 1889.

The Board met pursuant to adjournment at the Chamber of Commerce at 10 A. M. The minutes of the last meeting were read and approved.

James A. Buchanan, counsel of the New York, Lake Erie and Western Railroad Company appeared and asked an extension of time until February 1st, 1890, in which to file briefs in the matter of Rae against The New York, Lake Erie and Western Railroad Company. The request was concurred in by Rae's counsel through a letter. Granted.

R. H. Soule, for the Union Switch and Signal Company, appeared and presented diagrams of a pneumatic block signaling device, in operation on Pennsylvania road near Pittsburg, and was heard by the Board in regard thereto.

The Secretary submitted unfinished business as follows:

Letter of J. D. Campbell, counsel Elmira, Cortland and Northern Railroad Company, relative to complaint of Mr. Van Duzer. Ordered filed.

Letter of Albert Allen, general superintendent Elmira, Cortland and Northern Railroad Company relative to same complaint.

Letter of De Witt C. Curtis making a similar complaint. Ordered, letters written as dictated to Allen, Van Duzer and Curtis, with a copy of Allen's letter to be sent to Van Duzer. Commissioner Rickard was instructed to visit locality and inquire into complaint, Friday, December 13th.

Letter of James M. Rae. Ordered, letter sent Mr. Rae as dictated.

Letter of H. G. Young, manager Delaware and Hudson Canal Company. Ordered filed.

Letter of James W. McMahon, complaint against the Buffalo, Rochester and Pittsburgh Railroad Company. Ordered, letter sent Mr. McMahon, as dictated.

Letter of John King, president of the New York, Lake Erie and Western Railroad Company, relative to complaint of George C. Northrup. Ordered, letter sent Mr. King as dictated, and Mr. King's letter carried on file.

Ordered, letter sent H. G. Danforth, counsel of the Buffalo, Rochester and Pittsburgh Railroad Company, as dictated, relative to McMahon's complaint.

Letter of Henry J. Sullivan, relative to height of bridge in city of Rochester. Ordered, letter sent as dictated.

## NEW BUSINESS.

Application of Riker Avenue and Sandford's Point Railroad Company for leave to suspend operation during winter. Ordered, that notice of hearing, to be held December 16th at 2 P. M., in Albany, be advertised.

Letter of G. M. Rollins, asking question relative to issue of certificates of indebtedness by street railway company. Ordered, letter sent Mr. Rollins, as dictated.

Adjourned until Monday, December 16th, at 2 P. M., at Albany.

WILLIAM C. HUDSON,  
*Secretary.*

## DECEMBER 16, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Board heard counsel in support of the application of the Riker Avenue and Sandford Point Railroad Company to suspend operation in the winter months. Granted and ordered that order as dictated be transmitted.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of John A. Barhite, relative to the Rochester hearing as to grade crossings. Ordered, that Secretary inform committee that Board will meet at 9 A. M., 18th inst. Also to H. Sullivan, relative to bridge at Rochester.

Letter of Box, Norton & Bushnell relative to application for change of motive power. Ordered, that Secretary write that the Board would prefer an expression of opinion from the common council, but does not consider such consent as a condition precedent to its action.

Letters of John King and G. C. Northrup relative to non-operation of Lake Conesus branch. Ordered that copy of letter of former be sent to latter, and that the latter be informed that the Board will meet the parties he names at Powers' Hotel, 3 P. M. on the 18th inst.

Acceptance of conditions imposed by Third Avenue Railroad Company in matter of change of motive power. Ordered filed.

Letter of J. W. & G. W. Bills, relative to giving bills of lading. Ordered, Secretary write the West Shore Railroad Company and ask why the company should not give bills of lading when the fruit is in the company's possession, and write Mr. Bills that it has communicated with the company on this subject and will, on receipt, inform them of the result.

Letter of H. G. Danforth, relative to station at Devereaux. Ordered laid over for a week.

Report of T. W. Spencer, relative to the overflow at Big Flats. Ordered, Secretary write to the parties in interest and ask whether satisfactory arrangements have been reached as well as to a partition of the expenses.

Application of the Troy and Lansingburgh Railroad Company for approval of wire poles by J. J. Higgins. Ordered, order of approval as dictated be sent.

Letter of G. M. Rollins, relative to an inquiry made by him. Ordered filed.

Letter of C. M. Dewey, president of the New York Central and Hudson River Railroad Company, accompanied by report of J. M. Toucey, relative to report of Board on the Spraker accident. Ordered filed.

Letter of H. R. Gardner, as to preliminary proceedings in beginning to build a road. Ordered, Secretary send him an annual report and direct attention to the laws.

Commissioner Rickard made a verbal report in the matter of the complaint of Van Duzer & Curtis, to the effect that the cause of complaint was in course of being settled amicably.

Letter of F. C. Peck, relative to non-operation of Nunda branch. Ordered, that matter be presented to the Attorney-General for his action.

Ordered, that when the Board adjourns, it adjourn until Monday, December 23d, at 10 A. M.

The Board adjourned on December 17th, to meet at Rochester, 9 A. M., December 18, 1889.

WILLIAM C. HUDSON,  
*Secretary.*

## DECEMBER 18, 1889.

Board in session in city of Rochester. All present.

The Board inspected the crossing of the Buffalo, Rochester and Pittsburg railroad, and the New York Central and Hudson River railroad. Subsequently Messrs. Harris for the New York Central and H. G. Danforth for the Buffalo, Rochester and Pittsburg in opposition, and Mr. John A. Barhite, Mr. William Kelly, Mr. Gerulay and others were heard in support of complaint. Mr. M. A. Simmons was heard in reference to the Platt street crossing.

The Board visited the bridge at Exchange street, in the matter of communication of H. J. Sullivan, and recommended its height to be sixteen and one-half feet.

Subsequently the Board heard G. C. Northrup and Horace McGuire in the Lake Conesus matter.

Ordered, that the New York, Lake Erie and Western Railroad Company operate the branch until consent to its suspension be granted.

The Board adjourned to meet in Albany, December 23d.

WILLIAM C. HUDSON,  
*Secretary.*



DECEMBER 23, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of the secretary of department of public parks of the city of New York relative to the bridge on One-Hundred and Thirty-eighth street. Ordered, that letter of Board to the department and the response thereto be sent to complainants.

Letters of Samuel Sloan, president of the Delaware, Lackawanna and Western Railroad Company, and John King, president of the New York, Lake Erie and Western Railroad Company, relative to the overflow at Big Flats. Ordered, carried on file.

Letter of J. D. Layng, general manager of the West Shore Railroad, relative to the complaint of J. D. and G. W. Bills. Ordered copy sent to complainants.

Letter of James W. McMahon relative to Devereaux station. Ordered, that Secretary write in answer to his communication of December 21st, that the Board did not make a positive recommendation, but did suggest to the counsel of the road, Mr. Danforth, that an agent be stationed at Devereaux. A copy of the reply to this suggestion is herewith inclosed. The Board has written to Mr. Danforth, that any further communications must be filed with the Board on the 30th day of December, at which time they will reach a determination.

Letter of a driver relative to swing cars on the Grand, Houston and West Forty-second Street line. Ordered, that Secretary write that Board is informed that the company is running twenty swing cars, where drivers and conductors are compelled to work between seventeen and eighteen hours per day in violation of chapter 529, Laws of 1887. You will please inform the Board whether or not this information is correct by December 30th, 1889.

Letter of Austin Corbin, relative to complaint of Van Duzer. Ordered held until after January 1st, to see whether a composition of the difficulty promised is made.

Petition of citizens of Bath relative to commutation tickets on Brooklyn, Bath and West End railroad, and answer of company to the same. Ordered, that a copy of the answer be sent petitioners, and that company be informed that there is no statutory regulation as to commutation tickets.

Letter of William C. Wilcox, of Oneida Street Railway Company, applying for leave to suspend operation of road during winter months. Ordered, that the hearing be set down for Monday, December 30th, at 2.20 P. M., and the same be advertised.

Complaints of Vrooman and Wood and J. Raynor, against the West Shore's inability to obtain cars. Ordered usual course.

The Board adjourned until Monday, December 30th, 2.20 P. M.

WILLIAM C. HUDSON,

Secretary.

DECEMBER 30, 1889.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Sprague, Moray, Sprague & Brownell, relative to the operation of the Lake Conesus railroad, and asking for a hearing. Ordered, that such hearing be set down for January 7th, 1890, at 10 A. M., and that the Secretary inform the complainants of such order, so that they can make appearance or submit such further facts as they desire, although the Board does not deem their presence necessary.

Letter of Henry G. Danforth, accompanying verified statement of the vice-president of the Buffalo, Rochester and Pittsburg Railroad Company, relative to suspension of station at Devereaux. Ordered, that a copy of the statement be sent to J. W. McMahon, and his attention be called to marked clause, and he be asked if that provision will be satisfactory.

Letter of George Green, president of the Forty-second Street and Grand Street Railroad Company. Ordered, that he be asked to send a time-table showing how cars are run, and how many hours any driver or conductor is employed within the twenty-four; whether consecutively or with intervening hours of idleness. Answer required by the 7th of January, 1890.

Letter of Alfred Skitt, relative to operation of the Fourth Avenue line. Referred to Commissioner Rogers.

Letter of F. W. Baldwin, superintendent Ogdensburg and Lake Champlain Railroad Company, relative to heating cars on Bombay and Moira branch. Ordered, letter as dictated be sent.

Commissioner Rogers submitted a report in the matter of Wm. Savage Burns against the Wagner Palace Car Company. Ordered adopted and issued.

Commissioner Rogers submitted a report in the matter of the application of Oneida Street Railway Company to suspend operation during the winter months. Ordered adopted, and permission granted.

The Board adjourned until Tuesday, January 7th, 10 A. M.

WILLIAM C. HUDSON,

Secretary.

JANUARY 7, 1890.

The Board met pursuant to adjournment. All present.  
 The minutes of the last meeting were read and approved.  
 The Secretary submitted the business, under the rule, as follows:  
 Letter of A. O. Fowler, relative to commutation rates on the Brooklyn, Bath and West End railroad, announcing desired change. Case ordered closed.  
 Application of John D. Lyau, to designate newspaper in which to publish notice of meeting of stockholders to consider proposition to increase the stock of the Grand View Railroad Company. Paper ordered designated.  
 Complaint of Joel Wakeman against the New York, Lake Erie and Western Railroad Company, relative to overflow. Ordered usual course.  
 Letter of J. L. Packer, relative to transportation of sheep. Ordered usual course.  
 Recommendations of jury of coroner of Schenectady county. Ordered filed.  
 Letters of G. C. Northrup, and telegram of Sprague, Morey, Sprague & Brownell. Ordered, that letter, as dictated, copy of which is on file, be sent.  
 Letter of Sidney Lawrence, relative to fencing, embankment and station facilities of the Lake Champlain and Ogdensburg Railroad Company at Molra. Ordered, that letter, as dictated, copy of which is on file, be sent.  
 Letter of W. J. & G. W. Bills, relative to their complaint against the West Shore Railroad Company. Ordered, that case be closed.  
 Letter of Albert Allen, general superintendent Elmira, Cortland and Northern Railroad Company, to Commissioner Rickard, announcing the purpose of company to construct an iron span bridge across the Newtown creek at Horseheads, Chemung county. Case ordered closed, and copy of letter of Mr. Allen be sent complainant.  
 Letter of W. R. Wilbur against the Delaware, Lackawanna and Western Railroad Company, complaining of grade crossing. Ordered usual course.  
 Letters of B. M. Barnett and J. H. Calony, relative to car couplers. Ordered filed.  
 The Board adjourned until Tuesday, January 14th, 10 A. M.

WILLIAM C. HUDSON,  
*Secretary.*

JANUARY 14, 1890.

The Board met pursuant to adjournment. All present.  
 The minutes of the last meeting were read and approved.  
 Mr. Brownell, of counsel of the New York, Lake Erie and Western Railroad Company, was heard in the matter of the non-operation of the Lake Conesus railroad.  
 The Secretary submitted the unfinished business, under the rule, as follows:  
 Letter of Hon. Samuel Sloan, president of the Delaware, Lackawanna and Western Railroad Company, relative to complaint of Groveland Mills as to dangerous crossing. Ordered copy sent to complainants and case closed.  
 Complaint of Mrs. de Rood Rice, relative to fare charged from New York to Buffalo. Ordered, Secretary write that complaint has been made of a charge of nine dollars and twenty-five cents from New York to Buffalo, whereas the supposition generally obtains that two cents per mile is charged and that distance is 440 miles, the Board desires to know upon what basis the charge is made.  
 Letter of Horace McGuire, relative to the Lake Conesus matter. Ordered filed.  
 Letter of Keen Bros., of Lynn, Mass. Ordered, Secretary write that the recommendations of the Board relative to grade crossings at Buffalo were not complied with, but that a law was passed providing for appointment of commissioners under which changes in the grades have been or are about to be made. Application to the city engineer of Buffalo would, doubtless, result in the information desired.  
 Complaint of H. Fordham & Son against the Long Island Railroad Company, relative to transportation rates. Ordered, usual course.  
 Complaint of village board of Ellicottville, relative to the change of Ashford station. Ordered, usual course.  
 Letter of George Green, president of the Forty-second Street and Grand Street Ferry Railroad Company, relative to car trips. Ordered, that letter as dictated be sent.  
 Letter of DeWitt C. Curtis, relative to bridge over Newtown creek, at Horseheads. Ordered, that Secretary write that a copy of the letter of the company, announcing the intention to construct bridge, was sent him on January 7th, and that the Board desires to know if it was received.  
 Letter of J. W. McMahon, relative to Devereaux station. Referred to Commissioner Baker. Ordered, that Secretary write to Mr. McMahon to send forward petitions referred to by him.  
 Letter of H. H. Freeman relative to releases on Rome, Watertown and Ogdensburg railroad. Ordered, that letter as dictated, copy of which is on file, be sent.  
 Board adjourned until Monday, January 20th, at 2.30 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

JANUARY 20, 1890.

The Board met in pursuance of adjournment. All present.  
 The minutes of the last meeting were read and approved.  
 The Secretary submitted the unfinished business, under the rule, as follows:  
 Letter of S. W. Hall, relative to his complaint against the New York, Lake Erie and Western Railroad Company. Ordered filed and case closed.

Letter of John King, being answer to complaint of Joel Wakeman relative to overflow at Painted Post. Usual course.

Letter of D. C. Curtis, relative to bridge over Newtown creek at Horseheads, on the Elmira, Cortland and Northern railroad. Ordered filed and case closed.

Letter of George C. Northrup relative to non-operation of Conesus Lake railroad. Ordered held on file one week.

Ordered, letter as dictated, to W. S. Bissell, general counsel Lehigh Valley Railroad Company, relative to failure to file reports, be sent.

Complaint of Homer Cook, highway commissioner of town of Pavilion, Genesee county. Usual course.

Ordered, that Secretary write to Mr. Sloan, president of the Delaware, Lackawanna and Western Railroad Company, and Mr. King, president of the New York, Lake Erie and Western Railroad Company, that the Board desires to know what progress has been made looking to an agreement between the New York, Lake Erie and Western and the Delaware, Lackawanna and Western railroad companies for an apportionment of expenses in taking such means as will prevent a repetition of floods at Big Flats, brought about by their respective embankments.

John M. Calhoun and Superintendent Seth M. Harris, of the Forty-second Street and Grand Street Ferry Railway Company, were heard in the matter of swing trips involving more than ten hours' work within twelve consecutive hours. Mr. Calhoun having stated that a time-table would be adopted abolishing the swing trips, the complaint was thus settled.

Ordered, that the Board adjourn until Tuesday, January 27th, 10 A. M.

WILLIAM C. HUDSON,

Secretary.

# JANUARY 27, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Mr. Steckley was heard and presented the papers in the matter of the application of the Binghamton Central Street Railroad Company for increase of capital stock.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Wm. A. Baldwin, vice-president of the Buffalo, Rochester and Pittsburg Railroad Company, being answer to complaint of town of Ellicottville as to dangerous condition of Ashland crossing. Ordered usual course.

Letter of Vrooman & Wood relative to their complaint of inability to obtain sufficient cars for transportation of hay. Ordered, that a hearing on the same be set down for February 11th, and copy of letter be sent to C. M. Depew.

Letter of E. G. Sihler, Ph. D., as to danger in operation of cable cars on One Hundred and Twenty-fifth street, New York city. Ordered, that matter be referred to Commissioner Rogers, and that the president of the Third Avenue road be informed that he will be at the office of the road, Sixty-fifth street, Thursday, January 29th, 10 A. M., for the purpose of investigating the accident occurring about 5 P. M. on One Hundred and Twenty-fifth street near Fourth Avenue on January 25th.

Letter of employee relative to trips of crews from New York to Buffalo and return. Ordered, that letter as dictated be sent.

Letter of Joel Wakeman and others, being reply to answer of New York, Lake Erie and Western Railroad Company, in matter of Wakeman and others against said road alleging overflow by reason of railroad embankments. Ordered, that the matter be referred to Commissioner Rickard for hearing, who shall take with him Mr. Spencer, and that companies and citizens be notified of hearing at Painted Post on February 6th, 1890.

Application of the Saratoga Electric Railway Company, for designation of paper in which to advertise the meeting of stockholders, at which is to be submitted proposition to increase capital stock. Ordered granted.

Letter of W. F. Halstead, general manager of the Delaware, Lackawanna and Western Railroad Company, relative to Big Flats overflow. Ordered that letter, as dictated, be sent, and that Mr. Spencer be notified to be present at hearing in Albany, February 30th, 2 30 P. M.

Circular letter of Grand Council of Steam Railroad Men. Ordered filed.

Application of Troy and Lansingburgh Railroad Company, for designation of paper in which to publish notice of stockholders' meeting to consider a proposition to increase its capital stock.

Letters of Mr. Fanshaw, secretary of the Lehigh Valley Railroad Company, relative to reports of certain corporations. Ordered, that letter, as dictated, be sent.

Letter of C. W. Larmon, relative to Eagle Bridge station, on Fitchburg railroad. Ordered usual course.

Ordered, that letter, as dictated, being the presenting of the fact of the non-operation of the Conesus Lake Railroad Company, to the Attorney-General, be sent.

Commissioner Baker submitted a report, in the matter of J. W. McMahon against Buffalo, Rochester and Pittsburg Railroad Company. Adopted and ordered issued.

Board adjourned to February 3d, 2 30 P. M.

WILLIAM C. HUDSON,

Secretary.

# MINUTES OF THE BOARD.

265

FEBRUARY 3, 1890.

The Board met pursuant to adjournment. All present.  
 The minutes of the last meeting were read and approved.  
 The Secretary submitted the unfinished business, under the rule, as follows:  
 Letters of C. M. Depew, president, and H. W. Webb, assistant president of New York Central and Hudson River Railroad Company, and H. W. Webb, vice-president Wagner Palace Car Company, relative to orders being given to place thermometers in cars, and to maintain temperature at from 68 to 72°.  
 Letter of H. Sperry, complaining of Douglaston crossing on Long Island railroad. Ordered usual course.  
 Letter of James Archibald, chief engineer of the Delaware, Lackawanna and Western railroad, relative to Big Flats' hearing. Ordered filed.  
 Letter of H. J. Hayden, second vice-president of the New York Central and Hudson River Railroad Company, relative to fare to Buffalo from New York. Ordered, copy sent to complainant.  
 Letter of J. A. Buchanan, counsel of the New York, Lake Erie and Western Railroad Company, relative to Painted Post hearing.  
 Letter of New York, Lake Erie and Western Railroad Company, relative to the Big Flats' overflow. Ordered filed.  
 Letter of H. S. Marcy, president Fitchburg Railroad Company, relative to complaint of new station at Eagle Bridge. Ordered filed.  
 Commissioner Rickard reported progress on his investigation into accident on the New York, Lake Erie and Western road at Tiooga by collision.  
 Commissioner Rogers submitted a report in the matter of an accident on the Third Avenue Cable road at One Hundred and Twenty-fifth street and Fourth avenue in city of New York on January 25, 1890. Adopted and ordered issued.  
 Estimate of cost to equip Binghamton Central with electric apparatus for motive power. Ordered, that the letter submitted be sent.  
 Report as to number of freight cars equipped with automatic car couplers. Ordered filed.  
 Recess until 10 A. M., February 4, 1890.

FEBRUARY 4, 1890.

The Board heard J. A. Buchanan & C. E. Buchholz, representing the New York, Lake Erie and Western Railroad Company, and James Archibald, chief engineer of the Delaware, Lackawanna and Western railroad, relative to floods at Big Flats and Corning.  
 Also, D. U. Robinson, J. A. Buchanan and C. E. Buchholz, representing the New York, Lake Erie and Western railroad, and R. W. Gibson representing complainant in matter of J. W. Rice against said company.  
 The Board considered the bill entitled "An act regulating the rates of fare of the Ticonderoga Railroad Company," referred by the Governor to the Board. Ordered, that the bill be returned to the Governor with the letter as dictated and approved.  
 Adjourned until 2.30 P. M., February 10th.

WILLIAM C. HUDSON.  
*Secretary.*

FEBRUARY 10, 1890.

The Board met pursuant to adjournment. All present.  
 The minutes of the last meeting were read and approved.  
 The Secretary submitted the business, under the rule, as follows:  
 Letter of A. H. Green, president of the Niagara Park Commission, with documents submitted by T. V. Welch, superintendent. Ordered that letter, copy of which is on file, as dictated, be sent.  
 Letter of C. M. Depew, relative to service of crews in trains between New York and Buffalo. Ordered that letter, as dictated, copy of which is on file, be sent.  
 Letter of J. D. Layug, West Shore Railroad Company, relative to complaint of Vrooman and Wood. Ordered laid on table for hearing February 11th.  
 Petition of accounting officers of various companies relative to change of date of fiscal year.  
 Ordered, that the circular, as submitted and approved, be sent out to all companies for opinions on the point suggested.  
 Opinion of Attorney-General relative to obligation of Geneva and Sayre Railroad Company to file report with this Board. Ordered, that a blank report be sent to the president of the road, with a copy of the opinion of the Attorney-General as to the obligation resting on the Geneva and Sayre Railroad Company to make a report of the operations for the year ending September 30th, 1889, of the Geneva, Ithaca and Sayre Railroad Company. The Board hereby requests such a report.  
 Letter of William H. Baldwin, vice-president of the Buffalo, Rochester and Pittsburg Railroad Company, being answer to complaint of Homer Cook. Ordered usual course.  
 Letter of Isaac S. Signor, relative to crossing in Albion. Ordered, that he be written at the Board has received his communication and notes that he desires a grade crossing instead of the overhead crossing now existing. The Board would be loth to make such a recommendation, since it has strenuously advocated the abolition of grade crossings ever since it came into existence. Section 2 of chapter 439, Laws of 1884, requires that bridge warnings should be erected and maintained. The Board would be glad to know whether such warning signals are maintained at the crossing referred to, and so the distance in length in the clear from the top of rail to the bottom of bridge.

Letter of William S. Sloan, general freight agent Western Railroad Company, relative to complete course.

Letter of Austin Corbin, president of the Long Douglaston crossing. Ordered usual course.

Letter of H. Fordham & Sons, being reply to a company to their complaint. Referred to Commissioner.

Letter of John D. Lynn, relative to application increase of capital stock. Ordered, that he be verified statement of the cost of construction and gations, what the object of the increase of stock estimate of a competent person as to what the ex

Ordered, that Secretary write the mayor of Elm of Mr. Collingwood, the engineer, has been made receive a copy with a view of reaching an intelligence of the Fifth ward against the New York, La before it.

Application of the Croton Valley Railway Co Ordered, similar order as made in Grand View ca

Board took a recess until 10 A. M., February 11, 1

#### FEBRUARY 11,

The Board heard S. S. Hatt and Mr. Wood of c Wood against the West Shore Railroad Company.

Hearing postponed until 10 A. M. February 18th, copy of which is on file, ordered sent.

Board adjourned until February 17th, 2.30 P. M.

#### FEBRUARY 17,

The Board met pursuant to adjournment. All The minutes of the last meeting were read and

The Secretary submitted the unfinished business

Letter of G. M. Diven, asking for designation of stockholders' meeting to consider proposition to b and Van Etenville Railroad Company.

Letter of J. M. Rae, relative to his complaint a Western Railroad Company. Ordered, that the S is ready to make decision and are only awaiting t neer retained by the city of Elmira, which is pr

Letter of residents of Cazenovia, relative to con Syracuse, Ontario and New York railroad. Order to have a report as to the condition of the tunnel, prevent accidents.

Application of Croton Valley Railroad Comp Ordered approved as dictated.

Letter of H. S. Marcy, president of the Fitchbur Bridge station. Ordered case closed.

Letter of Charles W. Ward, town clerk of Ellic Referred to Commissioner Rickard for hearing, a

Letter of J. L. Packer, relative to his complain and Western Railroad Company. Ordered closed

Application of the New York, Danbury and Bos of paper in which to publish notice of stockholde

Letter of H. A. Sperry, relative to Douglaston Referred to Commissioner Baker.

Application of Grand View Beach Railroad Com Laid over until the 18th inst.

Letter of Charles S. Davison, mayor of Elmira, Ordered filed.

Letter of Goldsmith & Tuthill, relative to faili to conform to the recommendations of Board. On the road, and the company asked why it is not prac by complainants.

Letter of William T. Wilson, relative to intent sion as to automatic couplers. Ordered, he be r and a copy of law inclosed to him.

Answers to circular No. 54. Ordered filed.

The Board took a recess until February 18th, 10

#### FEBRUARY 18 — 1

The Board heard S. S. Hatt and Mr. Wood, in th & Wood against the West Shore Railroad Compan be approved and order issued.

The Board heard Mr. Smith in support of appl roa't Company for an increase of capital stock. A

The Board heard Mr. Charles Crenell, in support of the application of the Grand View Beach Railroad Company for increase of capital stock. Ordered approved and issued.

The Board adjourned until Monday, 24th, 2.30 P. M.

WILLIAM C. HUDSON,  
Secretary.

FEBRUARY 24, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Board heard Mr. F. S. Smith, counsel, and C. L. Bullis, president of the Allegany and Kinzua Railroad Company, in the matter of application for increase of capital stock. Approved and ordered issued.

The Board heard Mr. Chas. Cleminshaw, president, and J. J. Hagan, secretary, of the Troy and Lansingburgh Railroad Company, in matter of application for increase of capital stock. Laid over.

The Secretary submitted the unfinished business.

Letter of H. G. Danforth, counsel of the Buffalo, Rochester and Pittsburg Railroad Company, relative to matter of complaint of J. W. McMahan. Ordered, that the company be ordered to show cause why the matter should not be presented to the Attorney-General for his consideration and action.

Letter of Ashbel Green, relative to Cazenovia tunnel on the Syracuse, Ontario and New York railroad line. Ordered copy sent to complainants.

Letter of Austin Corbin, president of the Long Island Railroad Company, relative to complaint of Goldsmith & Tuthill.

Letter as dictated, copy of which is on file, ordered sent.

Letter of J. M. Rae, relative to his complaint against the New York, Lake Erie and Western Railroad Company. Ordered filed.

Letter of J. C. Bowen, of board of trade of Springfield, Mass., relative to the Dell safety switch. Ordered, that Secretary write that Board has received no information as to its practical operation, therefore it is not prepared to express an opinion.

Communication of Attorney-General as to his action in matter of suspension operation of Conesus Lake Railroad. Ordered filed.

Letter of Isaac S. Sigulior, president board of trade of Albion, N. Y., relative to the alleged dangerous crossing at Columbia street.

Ordered, that Secretary write to Central road that the crossing is reported as dangerous, and ask why the bridge should not be raised, and request immediate answer. Also write board of trade that Commission is in communication with the Central as to the practicability of raising the bridge.

Recess taken to 10 A. M., 25th inst.

FEBRUARY 25—10 A. M.

The Board met.

Commissioner Baker submitted a report in the matter of the complaint of H. Fordham & Company against the Long Island Railroad Company. Ordered adopted and issued.

Commissioner Rickard reported progress in the matter of the complaint of town board of Ellicottville against the Buffalo, Rochester and Pittsburg Railroad Company relative to Ashland crossing, and submitted a letter received from Buffalo, Rochester and Pittsburg Company explaining the failure of a representative of the company to be present. Ordered, that the company be instructed to be present at Albany, Monday, March 3d, 2.30 P. M.

Also reported progress in the matter of the complaint of the residents of Painted Post against the New York, Lake Erie and Western Railroad Company. Ordered, that hearing be set down at Capitol, Albany, March 11th, 10 A. M., and that parties be notified of the same.

Commissioner Rogers submitted a report in the matter of the complaint of J. M. Rae and residents of the Fifth ward of Elmira against the New York, Lake Erie and Western Railroad Company. Adopted and ordered printed and issued.

Ordered, that the recommendations of the Board as to the change of date of fiscal year from September 30th to June 30th, submitted, be sent to Senate and Assembly; also copies of bill to effect the same and letters to chairmen of Senate and Assembly Railroad Committees be sent.

Board adjourned to March 3d, 2 P. M.

WILLIAM C. HUDSON,  
Secretary.

MARCH 3, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, as follows:

Letter of J. M. Toucey, general superintendent of the New York Central and Hudson River Railroad Company. Ordered filed.

Copy of municipal report of city of Elmira, forwarded by the mayor. Ordered filed.

Letter of J. A. Buchanan relative to Painted Post hearing on the 11th inst. Ordered filed.

Letter of Commissioner Batchellor of the Niagara Park Reservation. Ordered filed.  
 Letter of residents of Cazenovia relative to tunnel on Syracuse, Ontario and New York Railroad. Ordered kept on file.  
 Letter of Austin Corbin, president of the Long Island Railroad Company, relative to Goldsmith & Tuthill's complaint. Ordered filed.  
 Letter of D. C. Robinson relative to the Collingwood report. Ordered filed.  
 Commissioner Baker reported upon the matter of the Douglaston crossing on the Long Island railroad. Adopted and case ordered closed.  
 Henry G. Danforth, counsel for the Buffalo, Rochester and Pittsburg Railroad Company in the matter of the complaint of J. W. McMahon to show cause, and of the complaint of town of Ellicottville, was heard.  
 Commissioner Rickard submitted a report in the matter of the accident at Owego, January 29, 1890, on the New York, Lake Erie and Western railroad. Adopted and ordered issued.  
 Recess taken until Tuesday, 10 A. M., March 4.

## MARCH 4—10 A. M.

The Board heard Hon. E. C. Sprague and Mr. Brownell, relative to the grade crossing question in Buffalo.  
 The Board took up the bill relative to Seneca Electrical railroad, referred by the Governor. Returned with report to the Governor.  
 Commissioner Rogers submitted a report on the accident on the Western New York and Pennsylvania railroad at Cuba. Ordered adopted and issued.  
 Ordered, that Secretary write to Mr. Bowen, general manager of Rome, Watertown and Ogdensburg Railroad Company, that Board is of opinion that the suspension of A. Tiffany has been sufficient discipline for his failure to keep his train under control in approaching station of Forest Lawn on the morning of August 10, 1889.  
 The Board adjourned until Monday, May 10th, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

## MARCH 10, 1890.

The Board met pursuant to rule. All present.  
 The minutes of the last meeting were read and approved.  
 The Secretary submitted the unfinished business, under the rule, as follows:  
 Letter of Joel Wakeman, relative to the hearing in the Painted Post matter. Ordered postponed until such time as the complainants are ready when they are to give two weeks' notice.  
 Letter of C. M. Depew, relative to running trainmen through from New York to Buffalo. Ordered case closed.  
 Letter of C. H. Allen, relative to Cuba accident. Ordered filed.  
 Letter of John Chandler, relative to the Hamburg accident. Ordered filed.  
 Letter of Mead & Hatt, relative to the failure of the West Shore Company to conform to recommendation of the Board in the matter of the complaint of Messrs. Vrooman & Wood. Ordered, that the company be cited to show cause why matter should not be referred to the Attorney-General March 18th, 10 A. M.  
 The Board heard Mr. W. B. Butler, in the matter of the application of the Saratoga Electrical Railway Company, for an increase of capital stock from \$100,000 to \$150,000. Granted and report ordered issued.  
 Board adjourned until Monday 17th, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

## MARCH 17, 1890.

The Board met pursuant to adjournment. All present.  
 The minutes of the last meeting were read and approved.  
 The Secretary submitted the unfinished business, under the rule, as follows:  
 Letter of DeWitt C. Rodenhurst, M. D., conveying complaint of citizens of Philadelphia, Jefferson county. Ordered usual course.  
 Letter of Robert Duncan Elder, applying for designation of newspaper in which to publish notice for meeting of stockholders of Metropolitan Crosstown Railroad Company in matter of increase of capital stock. Ordered, *Evening Post* be designated, and that Mr. Elder be written that Commissioner Rogers designated the *Evening Post* as New York on Wednesday last.  
 Letter of Oscar H. Pencock, first assistant engineer city of Rochester, relative to grade crossings in that city.  
 Ordered, that Secretary write that after railroad companies have inspected the maps, profiles, etc., they be sent to the Board, when, after inspection, the Board will determine whether a visit to Rochester again will be necessary.  
 Letter of R. Bell, superintendent Western New York and Pennsylvania railroad relative to the Cuba accident. Referred to Commissioner Rogers for answer.  
 Communication relative to absence of dogs and cogwheels on cars of certain roads. Ordered, copies sent to the companies complained of.

Letter of John M. Welter, Secretary Central Labor Union of Buffalo, relative to monopoly given to cabmen by railroad companies. Ordered copy sent to companies and to the mayor of city.

Letter of Frank Ferguson, relative to automatic signals at certain points on the Manhattan Elevated Railway. Ordered usual course.

The Board took a recess until 10 A. M., the 18th inst.

MARCH 18, 1890—10 A. M.

The Board heard Mr. Hatt in the matter of the citation of the West Shore Railroad Company to show cause why the failure of the company to comply with the recommendations of the Board should not be complied with. Ordered, that letter to President Depew, as dictated, copy of which is on file, be sent, and that proceedings be postponed for two weeks.

Report of the inspector in matter of the Canastota tunnel on the New York, Syracuse and Ontario Railroad. Ordered, that report as dictated, be approved and adopted, and copy sent to company and to complainants.

Board adjourned until Monday, 24th inst., at 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

MARCH 24, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Commissioner Rogers submitted a report in the matter of the accident occurring on the Lake Shore and Michigan Southern Railroad March 6th, 1890, near Bay View. Adopted, and ordered printed and issued.

The Secretary submitted the unfinished business as follows:

Letter of John T. Rich, Railroad Commissioner of Michigan, relative to automatic couplers. Ordered, that letter, as dictated, copy of which is on file, be sent.

Letter of Albert Crane, relative to proposed complaint against the Second Avenue Railroad Company. Ordered, that Secretary write that if Mr. Crane will make a specific complaint against the Second Avenue Railroad Company, a copy thereof will be sent to the company, and if it shall appear from the answer there should be an examination necessary, such will be made.

Letter of Ashbel Green, president of the Syracuse, Ontario and New York Railroad Company, and Robert J. Hubbard, of complainants, in matter of Cazenovia tunnel. Ordered, that letter be filed.

Letter of Alfred Spring, relative to safety switch. Ordered, Secretary write that when train is equipped Board will be glad to hear from them; then they will determine as to the examination.

Letter of Charles Parsons, Rome, Watertown and Ogdensburgh Railroad Company, relative to Philadelphia complaint. Ordered, copy sent to complainant.

Letter of George Law, president of the Eighth and Ninth Avenue Railroad Companies, relative to dog and cogwheel on platform. Ordered, that letter, as dictated, drafted copy of which is on file, be sent.

Letter of John L. Foster, president of the Forty-second Street, Manhattanville and St. Nicholas Avenue Railroad Company. Ordered filed.

Letter of W. White, president Dry Dock, East Broadway and Battery Railroad Company. Ordered, that letter, as dictated, copy of which is on file, be sent.

Letter of G. C. Northrup, relative to failure of New York, Lake Erie and Western Railroad Company, to comply with recommendations of Board in Conesus Lake matter. Ordered, letter as dictated, copy of which is on file, be sent to Attorney-General.

Letter of Walter Katté, relative to Genesee river bridge on line of New York Central Railroad. Ordered referred to Commissioner Rogers for answer.

Application of the Northern Adirondack and Northern Adirondack Extension Railroad Company for increase of capital stock. Ordered, that letter, as dictated, copy of which is on file, be sent to Mr. Beaman, at Malone.

Board took a recess until March 25th, 10 A. M.

MARCH 25—10 A. M.

Letter of Ashbel Green, general counsel of the West Shore Railroad Company. Ordered filed.

Letter of R. Bell, superintendent Western New York and Pennsylvania Railroad Company. Ordered filed.

Letter of William Abbott. Ordered, that letter as dictated, copy of which is on file, be sent.

Board adjourned until Monday, March 31st, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

MARCH 31, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Crampton & Belden, relative to rates of freights on blinds. Ordered, that Secretary write that the law gives the railroad corporation the power to fix rates of freight, provided they are just and reasonable. The question as to whether they are



just and reasonable is a matter of fact to be determined by either a jury in a suit to recover excessive rates, or by the State Railroad Commission, in a complaint specifically made.

Letter of DeWitt C. Curtis, relative to the bridge over the Newtown creek on the Elmira, Cortland and Northern railroad. Ordered, that Secretary write to Mr. Allen, superintendent Elmira, Cortland and Northern Railroad Company, that the assurances contained in his letter of December 30th have not been fulfilled, and ask what is the matter.

Letter of W. Abbott, relative to Commission Act. Ordered filed.

Letter of Ashbel Green, president of the Syracuse, Ontario and New York Railroad Company, relative to the Cazenovia tunnel. Ordered, copy sent to complainant.

Letter of Messrs. Coburn & Hunter. Ordered, Secretary send them copy of report of Board on accident on Lehigh Valley road.

Letter of P. M. Sullivan, relative to freight rates. Ordered, that Secretary write that the Board requests a statement specifically of the facts of each instance of overcharges; this statement is then sent to the company complained of with leave to answer within ten days; which answer is sent to complainants with the request that reply be made within ten days, when the Board, considering the issue joined, determines whether testimony is necessary or whether a finding can be made upon the facts before it.

Letter of S. B. Merrill, treasurer and general manager of the Fifth Ward Railroad Company of Syracuse. Ordered, Secretary write that the cost price of real estate is what the Board takes into consideration.

Letter of J. E. Connell, relative to reduced rates from Baldwinsville. Ordered usual course.

Report of T. W. Spencer upon the Genesee river bridge on line of New York Central and Hudson River railroad. Referred to Commissioner Rogers for answer.

Financial statement of Northern Adirondack and Northern Adirondack Extension Railroad Companies, in matter of application for increase of capital stock. Ordered, that Mr. Beaman be asked by telegraph whether the books of the company shows the cost of construction of road and equipment.

Letter of Joel Wakeman, relative to complaint of Painted Post. Ordered, that hearing be set down for the 15th of April and parties in interest be notified.

The Board heard Hon. George Raines in the matter of the application of Rochester City and Brighton Railroad Company for change of motive power.

The Board took a recess until April 1, 10 A. M.

#### APRIL 1—10 A. M.

The Board took up the consideration of the order to show cause issued to the West Shore Railroad Company, in which the West Shore Company made appearance by written communication, and the complainants in the matter. Ordered, in view of the fact that the counsel for complainants notifies the Board of a substantial compliance with their recommendations, that the case be closed.

Letter of O. H. Peacock, transmitting maps, profiles, etc., of proposed remedy of grade crossings in city of Rochester.

Ordered, that a hearing in the matter be set down for April 7th, at 2 P. M., at Capitol.

Ordered, that the application of Hon. George Raines to withdraw the papers submitted in matter of the Rochester City and Brighton Railroad Company's application for change of motive power, be granted.

Ordered, that report submitted on Assembly bill No. 789 (Rome, Watertown and Ogdensburgh ferry bill), referred by the Governor for opinion, be sent to the Governor with the bill.

Board adjourned until April 7th, 1890.

WILLIAM C. HUDSON,

Secretary.

#### APRIL 7, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the Board were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Arnoux, Ritch & Woodford relative to increase of stock of the Union Steel Railroad Company, of Brooklyn. Ordered, that Secretary send them a designation paper and say that the Board requires a verified statement of the cost of equipment and construction made or intended and of the stock and outstanding debt, etc.

Letter of Albert Allen relative to bridge over Newtown creek, on line of Elmira, Cortland and Northern railroad. Ordered, that the complainant be given the information contained therein.

Letter of H. G. Young, second vice-president of the Delaware and Hudson Canal Company. Ordered, copy of letter be sent to the complainants and they be asked if they desire to make any reply.

Letter of F. Loomis, general counsel of the New York Central and Hudson River Railroad Company, and O. H. Peacock, first assistant city engineer of city of Rochester, relative to protecting grade crossings in said city, and asking postponement. Ordered, that Secretary notify Mr. Loomis, general counsel of the New York Central and Hudson River Railroad Company, and Mr. Peacock, first assistant city engineer of city of Rochester, of hearing on 14th inst., at 2.30 P. M., and that an estimate of the cost proposed by his plans be sent Board.

Letters of Delaware, Lackawanna and Western; New York, Lake Erie and Western; Grand Trunk Railway Company; Lehigh Valley Railroad Company; Lake Shore

Michigan Southern Railway Company; the New York, Chicago and St. Louis Railroad Company; Buffalo, Rochester and Pittsburg Railway Company, being answers to complaint of the Buffalo Central Labor Union of discrimination in favor of C. W. Miller & Co., hackmen. Ordered laid on table until further answers are received.  
Mr. Danforth, counsel, and Mr. Hoyt, chief engineer of the Buffalo, Rochester and Pittsburg Railroad Company, were heard in the matter of the proposed protection of grade crossings in the city of Rochester.

Recess taken until April 8th, 10 A. M.

APRIL 8—10 A. M.

Application of H. F. Natchman to be relieved from the censure of the Board. Ordered, that the report as dictated, a copy of which is on file, be issued.

Letter of the Western New York and Pennsylvania Railroad Company relative to the complaint of the Buffalo Central Labor Union. Ordered laid on the table.

The Board heard Mr. George C. Greene relative to the report of the Board in the matter of the Bay View accident.

Letter of Delaware and Hudson Canal Company relative to petition of residents of Beekmantown for change of station. Ordered, that a hearing be set down for April 22d, 10 A. M., and the same be advertised.

Board adjourned until Monday, 14th, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

APRIL 14, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Complaint of John French, as to dangerous condition of Utica City Belt Line track in front of his premises. Ordered usual course.

Complaint of George N. Look, as to overcharge of freight by the Kanona and Plattsburg Railroad. Ordered usual course.

Letter of resident of Hamilton, N. Y., relative to confusion resulting from the same name being given to a minor station on New York, Lake Erie and Western railroad. Ordered usual course.

Letter of C. M. Depew, president of the New York Central and Hudson River Railroad Company, relative to complaint of the Buffalo Central Labor Union. Ordered usual course.

Application of the Utica and Mohawk Railroad Company for sanction to a change of motive power. Ordered, that hearing on the same be set for Monday, April 28th, at 2.30 P. M.

Letter of D. N. Lockwood, relative to possible application of Niagara Street Railway Company of Buffalo, for leave to change its motive power. Ordered, that Secretary write that no application has yet been made, and the Board is not aware of any authority permitting them to change the motive power.

Letter of S. A. Beaman, relative to application of the Northern Adirondack and Northern Adirondack Extension Railroad Companies for increase of capital stock, withdrawing the same. Ordered withdrawn.

Letter of August Mordecai, requesting approval of Board for interlocking crossing device. Ordered, Secretary write that Board would like somebody to explain the interlocking device before it gives its approval, as they desire to ask some questions on matters relating thereto not shown on the blue prints. The Board is in session on Monday afternoons and Tuesday mornings of each week.

The Board heard Mr. H. W. Webb, third vice-president, F. Loomis, general counsel, and Mr. Walter Katté, chief engineer of the New York Central and Hudson River Railroad Company, Mr. Hoyt, chief engineer of the Buffalo, Rochester and Pittsburg Company, and O. H. Peacock, first assistant city engineer, and Rev. Dr. Sinclair, of Rochester, in the matter of grade crossings of said city.

Board took a recess until April 15th, 9.45 A. M.

APRIL 15—9.45 A. M.

The Board heard Mr. J. A. Buchanan, general counsel, and J. S. Schutze, assistant engineer, of the New York, Lake Erie and Western Railroad Company, and Rev. Joel Wakeman, of Painted Post, in the matter of the residents of Painted Post against the New York, Lake Erie and Western Railroad Company.

The Board took up the bill referred to it by the Governor, said bill relating to the rate of fare to be charged by the Kinderhook and Hudson Railroad Company. Ordered, bill returned with the report, as dictated, copy of which is on file.

Commissioner Rickard submitted a report in the matter of the accident occurring near Portage on the Western New York and Pennsylvania Railroad on March 22, 1890, adopted, after amendment, and ordered issued.

Board adjourned until Monday, April 21st, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

APRIL 21, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Robert J. Hubbard, relative to Cazenovia tunnel. Ordered filed.

Letter of D. N. Lockwood, of Buffalo, relative to the change of motive power on street railway on Niagara street. Ordered, that letter as dictated, copy of which is on file, be sent.

Letter of George Tallon, being a supplementary petition in the matter of the residents of Beekmantown against the Delaware and Hudson Canal Company.

Letter of C. M. Depew in the matter of the complaint of the board of trade of Albion against the New York Central and Hudson River Railroad Company. Ordered, that Secretary write that, in view of the fact of the number killed at the crossing, and of the censure of the coroner's jury, the Board deems that the bridge should be raised, if practicable, and it would like to learn from him as to the cost of the improvement.

Letter of Fred. L. McMullen, relative to change of motive power on Niagara street. Buffalo. Ordered filed.

Letter of W. C. Nell, relative to the accident near Portage on Western New York and Pennsylvania railroad. Ordered, that copy of decision be sent him.

Application of the Buffalo Street Railway Company for change of motive power on line running over Niagara street. Ordered, that hearing of the same be set down for 29th inst., 10 A. M., at Capitol.

Application of the Geneva and Van Ettenville Railroad Company for an increase of capital stock. Ordered, that Secretary write that the Board has received application, but as the locality and direction of the various roads are not given, the Board can not reach an intelligent decision, and therefore they desire somebody to appear before them the afternoon of the 28th inst. to explain what is now unintelligible.

Ordered, that the circular as prepared relative to change of the end of the fiscal year by chapter 98, Laws of 1890, be sent to the various companies with a copy of the law.

Commissioner Rogers submitted a report in the matter of the grade crossings in the city of Rochester. Adopted and ordered printed and issued.

The Board took a recess until Tuesday, April 22d, 10 A. M.

APRIL 22—10 A. M.

The Board heard President Heacock and Superintendent Button in the matter of a transportation of coal.

The Board heard the petitioners and remonstrants in the matter of the change of station at Beekmantown on the line of the Delaware and Hudson Canal company's road.

The Rochester and Brighton Railroad Company submitted its application for a change of motive power. Hearing set down for April 28th, at 2 P. M.

Commissioner Rogers submitted a report in the matter of the residents of Painted Post against the New York, Lake Erie and Western Railroad Company. Adopted, ordered printed and issued.

The Board adjourned until Monday, April 28th, at 2 P. M.

WILLIAM C. HUDSON,  
Secretary.

APRIL 28, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Petition and complaint of the residents of the town of Holland. Ordered, copy sent to the Western New York and Pennsylvania Railroad Company, with the request that they inform the Board what reason exists for not acceding to the request, and that before work is progressed with the Board desires to hear both sides.

Answer of the Kanona and Plattsburg Railroad Company to the complaint of Geo. W. Look. Ordered, that Secretary transmit the answer to the complainant.

Answer of Utica Belt Line Railroad Company, and reply of Jno. French. Ordered, Secretary transmit reply and ask what the company means by informing the Board that the defect has been remedied.

Request of Central Labor Union of Buffalo for extension of time in which to reply to answer of roads. Granted.

"Also, that Board sit in Buffalo to hear the complaint. Ordered, Secretary write, "impossible at present."

Letter of H. W. Webb, relative to Central crossing at Albion. Ordered filed.

Letter of Jas. W. McMahon, relative to Ellicottville crossing and asking for copy of decision. Ordered, that Secretary recite the facts to Mr. McMahon, and that he write to Mr. Danforth to know what was done.

Commissioner Baker submitted a report in the matter of the petition of residents of town of Beekmantown. Ordered adopted and issued.

The Governor referred two bills to the Board, one relative to the Brooklyn City Railroad Company, and one in relation to the Buffalo grade crossing, for opinion.

The Board heard Mr. Mann, in support of the application of the Utica and Mohawk Railroad Company for sanction of change of motive power. Granted and ordered report, copy of which is on file, be issued.

The Board heard Hon. George Raines in support of application for sanction to change motive power on the Rochester railway. Approved and ordered report, copy of which is on file, be issued.

The Board heard Mr. G. M. Diven in support of the application of the Geneva and Van Ettenville Railroad Company, for increase of capital stock. Approved and report, copy of which is on file, be issued.

The Board took a recess until 9.30 A. M., April 29th.

APRIL 29—9.30 A. M.

The Board heard Mr. Mann, city engineer of Buffalo, Senator Laughlin and Mr. Sheehan on the Buffalo grade crossing bill.

The Board heard Mr. Box, Judge Humphrey and Hon. D. N. Lockwood and others in the matter of the application of the Buffalo Street Railway Company, for change of motive power on Niagara street. Hearing adjourned until 10 A. M., May 13th.

Ordered that the bills referred by the Governor, be returned with the reports, copies of which are on file.

Board adjourned until Monday, May 5th, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

MAY 5, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, as follows:

Letter of John King, relative to Hamilton station. Ordered, filed and copy sent petitioners.

Letter of Dolson and Orcutt, relative to Big Flats accident of August 21, 1889. Ordered, that letter, as dictated, copy of which is on file, be sent.

Call for a convention of State Railroad Commissioners at Washington was received. Ordered filed.

Letter of J. Armstrong, complaining of the failure of the Buffalo, Rochester and Pittsburgh Railroad Company to build fences. Ordered, that letter be sent to company, and its attention is drawn to section 4, chapter 140, Laws of 1880, and chapter 282, Laws of 1884.

Letter of John D. Hancock and C. A. Button, relative to the depot at Holland. Ordered, referred to Commissioner Rickard to hold hearing on Friday, May 9, 1890.

Letter of Henry G. Danforth, Buffalo, Rochester and Pittsburgh Railroad Company, relative to Ellicottville crossing. Ordered, copy sent to complainants.

Letter of Charles Parsons, president of the Rome, Watertown and Ogdensburg Railroad Company. Ordered, Secretary answer by pointing to pages, Roman characters, 24 to 28, Report of 1888, inclusive, and to pages 31 to 35, Report of 1889.

Letter of G. B. Hadley, relative to proposed change of depot at Brentford on the Long Island Railroad. Ordered, Secretary send a copy of the Timpson station case.

Letter of H. G. Young, Delaware and Hudson Canal Company, announcing compliance of company with recommendation of Board in the matter of change of station at Beekmantown. Ordered filed.

Letter of E. M. Gallaway relative to complaint of Mr. Ferguson. Ordered referred to Commissioner Baker for answer.

Letter of Isaac S. Signor relative to Clarendon street bridge, at Albion, on line of the Central road. Ordered filed.

The Governor referred the bill amending section 635 of the Penal Code. Ordered returned to the Governor with the report thereon.

Adjourned to May 6th, at 10 A. M.

MAY 6—1890.

The Board met at 10 A. M.

J. W. Ferguson, assistant engineer New York, Lake Erie and Western railroad, appeared, asking approval of signal apparatus. Approval given as shown in decision.

Complaint of C. H. Hartshorn against the New York, Lake Erie and Western Railroad Company, relative to fences. Ordered usual course.

Letter from G. O. Membership received. Letter sent as dictated.

WILLIAM C. HUDSON,  
*Secretary.*

MAY 12—1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Swidavit from A. T. Colby, of the Western New York and Pennsylvania Railroad Company, relative to complaint as to Holland station. Referred to Commissioner Rickard.

Petition asking for change of name of station from Great Valley to Kill Buck, on New York, Lake Erie and Western railroad. Ordered usual course.

Letter of J. Affleck, secretary of the Eighth Avenue Railroad Company, asking if the act in regard to maps and profiles is concerned, applies to street

roads. Ordered, that Secretary reply that the act in regard to maps, profiles, etc.,

does appear to apply to street railroads as well as to steam. The Board, however, is of the opinion that it was not so intended to apply, and will suggest an amendment excepting street railroads from the obligation of filing maps, profiles, etc., to the next Legislature.

Letter of R. S. Wilder complaining of the failure of the Buffalo, Rochester and Pittsburgh Railroad Company to maintain proper fences. Ordered usual course.

Complaint of G. O. Mernery as to condition of fences on Rome, Watertown and Ogdensburgh railroad. Ordered usual course.

Letter of H. D. Squire complaining of discrimination. Ordered, that letter as dictated, copy of which is on file, be sent.

Letter of James W. McMahon relative to Ellicottville crossing, asking suspension of action on part of Board. Ordered filed.

Letter of H. A. Deuser complaining of refusal of Fonda, Johnstown and Gloversville Railroad Company to furnish him with switches in like manner as other dealers are furnished. Ordered usual course.

Board took a recess until Tuesday, May 18th, 10 A. M.

#### MAY 13 — 10 A. M.

The Board heard Mr. H. W. Box for the company and D. N. Lockwood for the remonstrants in the matter of the application of the Buffalo Street Railway Company to change its motive power on Niagara street.

The Board adjourned until Monday, 19th inst., at 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

#### MAY 19, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Board heard Mr. Stone on the application of the Metropolitan Railroad Company for an increase of capital stock.

The Secretary submitted the unfinished business, under the rule, as follows:

Answer of the Buffalo, Rochester and Pittsburgh Railroad Company in matter of J. Armstrong relative to fences, and letter of Wm. E. Hoyt on the same subject. Ordered copy of answer sent complainant.

Also, of same company as to complaint of R. S. Wilder. Ordered copy sent to complainant.

Letter of New York, Lake Erie and Western Railroad Company, relative to complaint of Mr. Charles H. Hartshorn, accompanied by written withdrawal of Daniel L. Benton of counsel for complainant. Ordered filed.

Letter of Rev. Albert Osborn, of Buffalo, asking for an investigation of the explosion of engine 26 on the Lehigh Valley road. Ordered, that Secretary reply that Board is engaged in the process of investigation.

Petition of residents of towns of Schuyler and Frankfort for proper protection four miles east of Utica. Ordered usual course.

Letter of Box, Norton & Bushnell relative to change of motive power on Niagara street by the Buffalo Railway Company. Ordered, that letter as dictated, copy of which is on file, be sent.

Complaint of residents of town of Wheeler, Steuben county, of failure of the Kanona and Plattsburg Railroad Company to erect fences on its line. Ordered usual course.

Also of Abram Wheeler et al., of Plattsburg, as to same subject, and against same company. Ordered usual course.

Also ordered that Secretary write directing attention of company to section 44, chapter 140, Laws of 1880; and of sections 8 and 9, chapter 282, Laws of 1864.

Reply of George N. Look to answer of Kanona and Plattsburg Railroad Company to his complaint. Referred to Commissioner Baker.

Complaint of George E. Daggett, of Dalton, of a dangerous crossing on the New York, Lake Erie and Western railroad. Ordered usual course.

Letter of John E. Connell, relative to his complaint against the Delaware, Lackawanna and Western Railroad Company, alleging discrimination in rates. Ordered held on file.

Application of the Long Island City and Newtown Railroad Company for permission to change its motive power. Ordered, that Secretary write that the Board will not consider an alternative condition, but desires a specific statement as to what motive power it is desired to change to. Further that, before it considers the question of change, it desires to be shown that a majority of consents have been obtained. This being done, the Board will issue an order for a hearing on Monday, 2 P. M., on the 16th day of June.

Letter of Mrs. Mary McCarthy, relative to bonds of Hudson and St. Lawrence Railroad Company. Ordered, that Secretary write that he returns her coupon, and does not think the bond has any value, nor does he know where it can be disposed of; the transaction occurred so many years ago the Board does not see that it would be able to accede to any relief, if undertaken.

Commissioner Rickard submitted a report in the matter of the Holland depot. Ordered laid on table.

The Board went into executive session on four bills referred by the Governor to the Board. In open session, ordered that the bills be returned to the Governor with the reports of the Board thereon.

The Board then took a recess until May 20th, 10 A. M.

MAY 20—10 A. M.

The Board heard D. C. Robinson, representing the New York, Lake Erie and Western Railroad Company, asking for an opportunity to present reasons why the Board should modify its recommendation in the matter of the Painted Post floods. Ordered, that the complainant be notified that, at the request of the New York, Lake Erie and Western Railroad Company, an opportunity will be given to the company to present reasons why the recommendation of the Board of April 22, 1890, should be modified on June 23, 10 A. M.

The Board went into executive session on ten bills referred by the Governor to the Board. In open session, the Board ordered that the bills be returned to the Governor, with the reports thereupon, copies of which are on file. The Board was in continuous session every day until Friday, 24th P. M., when it adjourned until Monday, May 26th, 2 P. M.

MAY 26, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Acting Secretary submitted the unfinished business, under the rule, as follows:

Letter of John King, president New York, Lake Erie and Western Railroad Company, relative to complaint of G. E. Daggett, in regard to a crossing in Dalton. Ordered usual course.

Letter of S. M. Felton, Jr., vice-president New York, Lake Erie and Western Railroad Company, relative to request of citizens of Great Valley to change the station name to Kill Buck. Ordered usual course.

Letter of E. S. Bowen, general manager Rome, Watertown and Ogdensburg Railroad Company, relative to the fences on G. O. Mamber's land. Ordered usual course.

Letter of Jesse Johnson, counsel Long Island City and Newtown Railroad Company, relative to change of motive power. Ordered that a hearing be set down in Albany, at the Capitol, Monday the 16th of June at 2 P. M.

Letter of F. Smith, Wagner Palace Car Company. Ordered letter sent as dictated and on file.

Letter of J. M. Toucey, New York Central and Hudson River Railroad Company, relative to new engines and the bridges on the road. Referred to Mr. Stowell for report.

Letter of Joel Wakeman, relative to rehearing of Painted Post matter against the New York, Lake Erie and Western Railroad Company. Ordered letter sent as dictated.

Letter from Delaware and Hudson Canal Company, acknowledging complaint of A. G. Hodges, asking for a bridge over Ingersoll's crossing. Ordered filed. A petition from citizens on same subject was ordered sent the railroad company.

Petition in regard to explosion on Lehigh Valley locomotive. Matter referred to Commissioner Rickard.

Letter of James E. Connell, against Delaware, Lackawanna and Western Railroad Company, discrimination in rates of fare between Syracuse and Baldwinsville. Ordered, letter sent the road as dictated.

Letter of Hon. C. E. Patterson, relative to the Troy and New England Railway. Ordered letter sent as dictated.

Commissioner Baker submitted a report in the matter of the complaint of George H. Look against the Kanonsa and Plattsburgh Railroad Company. Adopted and ordered issued.

The Board adjourned until Tuesday, May 27th, at 10 P. M.

On May 27th the Board adjourned until Wednesday, May 28th.

On May 28th the Board considered the letters of L. M. Gillet, relative to increase of capital of the Mahopac Falls Railroad Company. Ordered, a paper be designated to publish notice of stockholders' meeting.

Also, of J. M. Toucey, relative to bridge at Albion. Referred to Commissioner Rickard.

Also, of William Abbott, inclosing a petition for relief at the terminus of the Suburban Elevated Railroad at One Hundred and Twenty-ninth street, New York city. Ordered usual course.

The Board adjourned until Thursday May 29th.

On May 29th, letter of Elihu Root, application approval of change of motive power of Broadway and Seventh Avenue Railroad Company. Hearing set down for June 18, at Chamber of Commerce, 11 A. M.

Board adjourned until Monday, June 2d, 2 P. M.

WILLIAM O. HUDSON,  
Secretary.

JUNE 2, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Theodore Voorhees, general superintendent of the New York Central and Hudson River Railroad Company, relative to flagman at the crossing four miles east of Utica. Ordered usual course.

Ordered, that Secretary prepare notices for advertisement of the meeting at Chamber of Commerce, 18th Inst., 10 A. M., to hear application of Broadway and Seventh Avenue Railroad Company for leave to change its motive power.



Letter of Rev. Albert Osborne, relative to the explosion of the locomotive boiler on the Lehigh Valley road. Ordered, that Secretary answer the same.

Letter of Carpenter & Higbie, Jamaica, L. I., relative to discrimination in rates on the Long Island railroad. Ordered, that Secretary write that the Board cannot satisfactorily answer their request except in the most general terms. Of course the railroad company cannot discriminate in favor of one locality as against another. If they desire to make a complaint against the road, it should be made specifically so that the Board can transmit a copy to the company, when from the facts before it the Board could reach a definite conclusion.

Answer of the Fonda, Johnstown and Gloversville Railroad Company, to complaint of H. A. Denier. Ordered usual course.

Letter of J. M. Toucey, general manager of the New York Central and Hudson River Railroad Company, relative to Harlem bridge. Ordered referred to Mr. Stowell for filing.

Letter of W. Abbott and others, complaining of train service on the Harlem branch of the New York, New Haven and Harlem railroad. Ordered usual course.

Answer of Suburban Rapid Transit Railroad Company, to complaint of residents of Westchester. Referred to Commissioner Rogers, and ordered usual course.

In the matter of the application of the Metropolitan Cross-town Railroad Company for increase of capital stock. Ordered, that letter, as dictated, copy of which is on file, be sent.

The Secretary submitted the bill of J. B. Lyon for printing 500 copies Annual Report. Ordered approved.

Ordered, that the following resolution be adopted:

*Resolved*, That in the absence of the Secretary, his duties shall be performed by the accountant, unless otherwise ordered by the Board.

It shall be his duty, among other things, to open the mail and make such distribution thereof as required by the rules of the office. Employees will follow his instructions.

The Board took a recess until Tuesday morning, 10 A. M., June 3, 1890.

#### JUNE 3—10 A. M.

The Board heard Mr. J. A. Buchanan and D. C. Robinson, of counsel for the New York, Lake Erie and Western Railroad Company, in an application to show cause in the matter of Painted Post against the New York, Lake Erie and Western Railroad Company. Postponed until June 24, 1890.

The Board went into executive session upon the bill of Revised Statute, referred by the Governor.

At 8 P. M., in open session, the Board adjourned until 10 A. M., June 4th.

#### JUNE 4—10 A. M.

The Board went into executive session on the bill relative to the Revised Statutes. In open session, the Board ordered that Assembly bill No. 1355, Executive No. 179, be returned to the Governor with the comments and report thereupon, copy of which, as dictated, is on file.

The secretary submitted, under the rule, a letter from the Delaware, Lackawanna and Western Railroad Company, being answer to complaint of J. E. Connell. Ordered usual course.

Letter of A. J. Decker, relative to automatic couplers. Ordered, that Secretary write that the law does not require that the Board of Railroad Commissioners should approve of an automatic coupler; that if the Lehigh Valley officials wish such coupler to put on its cars, it can do so provided it complies with the law, that it should couple and uncouple automatically without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

Letter of Edward W. Serrrel, relative to winding up a railroad corporation. Ordered, that Secretary write that it is a subject over which the Board has no control; that process of voluntary dissolution is to be found in sections 2419 to 2430, inclusive, of the Code of Civil Procedure.

Letter of W. Stevenson, of the Lehigh Valley Railroad Company, relative to filing of maps and profile. Ordered, that Secretary write in answer.

Letter of William F. Chappell, relative to the kinds of maps and profiles to be filed before construction of road, and where. Ordered, that letter as dictated, copy of which is on file, be sent.

The Board adjourned until 3 P. M., at Garrisons, June 9, 1890.

WILLIAM C. HUDSON,

Secretary

#### JUNE 9, 1890.

The Board met at Garrisons, N. Y., pursuant to adjournment.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of G. E. Daggett, relative to dangerous crossing in Dalton, N. Y.; referred to Commissioner Rickard to inspect.

Letter of the president of the Kanona and Plattsburgh Railroad Company. Ordered answer as dictated, copy of which is on file, be sent.

Letter of Esther Marks, relative to her complaint against the Harlem Bridge, Manhattan and Fordham Railroad Company. Ordered carried on file until June 16th.

Answer of the complainants to the reply of the Suburban Elevated Railroad Company to their complaint. Ordered referred to Commissioner Rogers.

Letter of J. E. Connell, of Baldwinsville, relative to complaint against the Delaware, Lackawanna and Western Railroad Company, as to discrimination in fares. Ordered carried on file until June 16th.

Letter of B. C. Rumsey, inclosing letter of R. D. McCreay, chief engineer Western New York and Pennsylvania Railroad Company, as to station at Holland. Ordered carried on file until June 16th.

Letter of George B. Roberts, president Pennsylvania Railroad Company, inclosing reports as to durability of Janney couplers. Ordered letter sent as dictated and on file (acknowledging receipt).

The Board adjourned until Monday, June 16th, at 2 P. M.

### JUNE 16, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business as follows:

Letter of A. E. Godeffery, relative to the complaints of residents of town of Wheeler, and of Abram Wheeler et al., and the failure to reach the present president. Ordered, that the documents referred to be sent him.

Letter of Geo. W. Look and A. E. Godeffery, relative to the complaint of Geo. W. Look. Ordered, that letter of Godeffery be sent to Mr. Look.

Letter of Frank Depew, W. R. S., of D. A. No. 75, Knights of Labor, relative to violation of law on Second Avenue Railroad. Ordered copy sent to company.

Letter of Chas. P. Clarke, president of the New York, New Haven and Hartford Railroad Company, being reply of the railroad company to complaint of residents of Westchester. Ordered copy sent to petitioners.

Letter of Reuben Robie, relative to complaint against the Kanona and Plattsburgh Railroad Company. Ordered held on file.

Letter of J. Crandall, Fitchburg Railroad Company, relative to the condition of depots. Ordered referred to the inspector for report to Board, and that Secretary write as to this and other matters.

Letter of Western New York and Pennsylvania Railroad Company, relative to Holland station. Ordered, that decision as dictated, copy of which is on file, be issued.

Letter of H. C. Adams, statistician Interstate Commerce Commission, relative to forms of State reports. Ordered, that letter as dictated, copy of which is on file, be sent.

In the matter of the complaint of J. E. Connell to the fares on the Delaware, Lackawanna and Western railroad between Syracuse and Baldwinsville. Ordered, that letter to S. Sloan, president of said road, as dictated, copy of which is on file, be sent.

Letter of A. B. Stone, president Metropolitan Crosstown Railroad Company, relative to application for increase of capital stock. Ordered filed.

Letter of Thomas Noy, clerk of board of highway commissioners of town of Olean. Ordered, that Secretary write that Board desires that crossings be specified and named, and upon its receipt the complaint will be transmitted to the railroad company for answer, after which the Board will consider it.

The Board adjourned until June 23d, 2 P. M.

WILLIAM C. HUDSON,  
Secretary.

### JUNE 23, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of H. G. Young (Delaware and Hudson Canal Company) conveying report of engineer relative to the complaint of A. G. Hodges as to an overhead crossing at Wilton. Ordered referred to T. W. Spencer, inspector, for investigation and report, with instructions to notify Hon. B. B. Grippen and the railroad company of his date of visit to point.

Letter of B. A. Hegaman, general traffic manager of the Delaware, Lackawanna and Western Railroad Company, and of F. F. Bentley of Syracuse and Baldwinsville Railroad Company, relative to rates of fare on the Delaware, Lackawanna and Western road between Syracuse and Baldwinsville. Ordered, that Secretary write Bentley, asking what is the present rate for round trip tickets on both roads purchased in Syracuse, and requesting immediate answer.

Letter of T. W. Spencer, relative to depots on Fitchburg railroad. Ordered, that copy of letter be transmitted to J. Crandall, superintendent.

Letter of R. M. Galloway, vice-president of Manhattan Elevated Railway Company, relative to suburban road.

Ordered, that the report in the matter of petition of Westchester travelers relative to suburban road, submitted by Commissioner Rogers, be issued.

Letter of Tobin-Campbell Cable Company. Ordered filed, and that Mr. Tobin be notified that if he desires to be heard the Board will hear him at 2 P. M., June 30th.

Letter of Alex. T. Lumby, relative to open cars on street railroads in Brooklyn. Ordered, that Secretary write that the Board had received no complaint on the subject of this, and that, as a general thing, the public preferred open cars. If any considerable number of people object to their use the Board would bring the matter to the attention of the railroads.



Letter of Bowland R. Hazard, relative to cable road on Broadway. Ordered filed.  
Commissioner Rogers brought up the question of the rail to be used upon Third avenue on change to cable system. Ordered, that letters to Commissioner of Public Works Gilroy, and to Mr. Lyon, president of Third Avenue Railroad Company, as dictated, be sent.

Ordered, that chairman approve the bill, \$11,521.49 of State printer for printing 7,000 copies of Annual Report, under provisions of law, chapter 588, Laws of 1888, the same having been previously approved by the Comptroller.

Reply of Wm. Abbott and W. S. Lyon, representing petitioners on Harlem branch of New York, New Haven and Hartford railroad for increased train service on said branch to answer of railroad company to petition. Ordered, copy sent to railroad company with request for immediate reply.

Letter of A. E. Godeffery, president of the Kanons and Plattsburgh Railroad Company, relative to its failure to fence its line. Ordered, that letter, as dictated, copy of which is on file, be sent.

Application of Troy and Lansingburgh Railroad Company for approval of a change of motive power. Ordered, that hearing be set down for Monday, June 30th, 2.30 P. M., and the same be advertised.

The Board adjourned until June 24th, 10 A. M.

JUNE 24—10 A. M.

Board in session.

The Board gave a hearing in the matter of the application of the New York, Lake Erie and Western Railroad Company for a modification or entire change of the decision of the Board in the Painted Post matter.

The Board adjourned until Monday, June 30th, 2 P. M.

WILLIAM C. HUDSON,  
*Secretary.*

JUNE 30, 1890.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

The Secretary submitted the unfinished business, under the rule, as follows:

Letter of Wm. Abbott, acknowledging the receipt of the decision of the Board in his complaint against the Suburban Rapid Transit Company. Ordered filed.

Letter of J. Hood Wright, president Suburban Rapid Transit Company, acknowledging receipt of decision of Board in the matter of Abbott against such company. Ordered filed.

Letter of T. F. Bentley, receiver Syracuse and Baldwinsville Railroad Company, relative to rates of fare. Ordered carried on file.

Letter of Frank S. Gardner, secretary New York Board of Trade and Transportation, relative to rail to be laid by Broadway Railroad Company. Ordered filed.

Letter of Lewis Lyon, president Third Avenue Railroad Company, relative to kind of rail to be laid by that road. Ordered filed.

Letter of L. M. Gillet, secretary Mahopac Falls Railroad Company, relative to increase of stock of that company. Ordered letter sent, as dictated.

#### NEW BUSINESS.

Letter of W. H. Dykman, relative to change of motive power on the Coney Island and Brooklyn railroad. Ordered letter sent, as dictated.

Letter of Robert Lenox Banks, complaining against the condition of the Glens Falls branch of the Delaware and Hudson Canal Company. Ordered letters sent Mr. Banks and President Olyphant, as dictated. Inspector Spencer was ordered to inspect the scene of the accident.

Complaint of citizens of Blythebourne against the Brooklyn, Bath and West End Railroad Company. Ordered usual course; also letter, as dictated, sent H. Smith of complainants.

Letter of J. S. Van Duzer, relative to complaint against the Elmira, Cortland and Northern Railroad Company. Ordered letter sent as dictated to Albert Allen, superintendent of the road, with copy of Mr. Van Duzer's letter.

Commissioner Rickard submitted a report in the matter of the complaint of the Board of Trade of Albion against the New York Central and Hudson River Railroad Company, relative to a bridge in that village. Adopted and ordered issued. That part of the complaint relative to water-closets was ordered made a separate complaint, and a letter, as dictated, in regard thereto, sent to J. M. Toucey, general manager of the New York Central and Hudson River Railroad Company, in reply to a letter from him.

Letter as dictated was ordered sent John King, president of the New York, Lake Erie and Western Railroad Company relative to complaint from village of Dalton.

The Board adjourned until Tuesday morning at 9.30, July 1.

JULY 1, 1890.

The Board met pursuant to adjournment.

The Board heard Porter Norton, counsel for Buffalo Street Railroad Company, and W. J. Russell for remonstrants, in the matter of the application of the Buffalo Street Railroad Company for approval of change of motive power.

The Secretary submitted letters as follows:

Letter of L. F. Jackson, commissioner of highways, relative to bridge on Elmira, Cortland and Northern railroad at Horseheads. Ordered usual course and copy of letter to Albert Allen sent to Mr. Jackson.

Letter of Richard Tobin, relative to cable motor. Ordered, that he be written that the Board will be in Albany Monday, July 7th.

Letter of A. E. Godeffrey, president Katonah and Northern Railroad Company. Ordered carried on file.

Letter of W. Boardman Reed, civil engineer Lake Champlain and Moriah railroad relative to map of route to be filed with Board. Ordered, that he be written that the manner in which he proposes to make the map in his letter of June 27th will be satisfactory to the Board.

Letter of P. H. Foster, complaining against Long Island Railroad Company. Ordered usual course.

Adjourned until Monday, July 7th, 2 P. M.

## EXPENSES OF THE BOARD.

Traveling expenses of the Board of Railroad Commissioners for the nine months ending June 30, 1890, as filed and audited by items in the office of the Comptroller of the State. (Limited by chapter 383, Laws of 1882, to \$500 a month, in the aggregate, or \$5,000 per annum.)

Of the Commissioners.....	\$358 50
Of the secretary, inspector and accountant.....	244 50
Of the marshal, stenographer and clerks .....	60 99
Total .....	<u>\$663 99</u>

## NEW COMPANIES

*Formed under the Laws of the State of New York during the year ending  
June 30, 1890, by filing articles in the office of the Secretary of State.*

### STEAM ROADS.

NAME OF ROAD.	County in which operated.	Date when articles filed.	Length of road.	Capital stock.
Atlantic Avenue Elevated.....	Kings .....	April 18, 1890	.....	\$1,000,000
Auburn and Ithaca .....	Cayuga .....	Oct. 8, 1889	12	120,000
Buffalo Dock and Connecting.....	Erie .....	Jan. 6, 1890	6.75	70,000
Buffalo, Thousand Islands and Portland.....	Niagara, Erie .....	May 20, 1890	35	500,000
Dunderberg Spiral .....	Rockland .....	Nov. 9, 1889	15	750,000
Dutchess County.....	Dutchess .....	April 21, 1890	12	300,000
East River Connecting .....	New York, Kings .....	Jan. 14, 1890	.60	100,000
Johnsonville and Rutland .....	Rensselaer, Washing- ton .....	June 11, 1890	46	1,000,000
Niagara Falls and La Salle .....	Niagara .....	May 17, 1890	8	60,000
Poughkeepsie and Hudson .....	Columbia, Dutchess..	Nov. 12, 1889	41	410,000
Saranac and Lake Placid .....	Franklin, Essex .....	June 13, 1890	10	100,000
Schenectady and Albany.....	Schenectady, Albany.	Jan. 27, 1890	15	150,000
Sea Side and Brooklyn Bridge Elevated .....	Kings.....	Mar. 28, 1890	.....	1,000,000
Ticonderoga .....	Essex .....	Dec. 13, 1889	2	30,000
Troy and New England .....	Rensselaer, Columbia	Dec. 27, 1889	35	350,000
Unadilla Valley .....	Oneida, Madison, Che- nango .....	Jan. 25, 1890	19.50	200,000
Wilson Terminal .....	Niagara .....	Nov. 14, 1889	2.50	25,000

### HORSE ROADS.

Buffalo Electric and Cable Street	Erie .....	Oct. 7, 1889	50	1,500,000
Buffalo, Tonawanda and Niagara River .....	Erie, Niagara .....	April 21, 1890	22	600,000
Crosstown Street.....	Erie .....	Feb. 5, 1890	.50	500,000
East River, Central Park and North River .....	New York.....	Nov. 15, 1889	5	500,000
East and West .....	New York.....	April 4, 1890	3	300,000
Eighth Ward .....	Onondaga .....	Nov. 6, 1889	1.1	60,000
Fiftieth Street, Astoria Ferry and Central Park .....	New York.....	Feb. 7, 1890	7.75	500,000
Gravesend, Flatlands, Flatbush and Brooklyn .....	Kings.....	Feb. 26, 1890	5.50	250,000
Harlem, Brook Avenue and Woodstock .....	New York.....	Jan. 21, 1890	5	1,000,000
Harlem, Mott Haven and Morris Avenue .....	New York.....	Jan. 21, 1890	5	1,000,000
Huntington Street.....	Suffolk .....	May 13, 1890	3	30,000
New York City Suburban Surface	New York .....	Dec. 7, 1889	7	500,000
Niagara River Street .....	Niagara .....	Mar. 14, 1890	6.50	65,000
North Third and Fleetwood.....	New York.....	Jan. 27, 1890	1.90	100,000
Port Jervis Electric .....	Orange .....	Nov. 27, 1889	3	30,000
Rochester .....	Monroe .....	Feb. 25, 1890	60	5,000,000
Saugquoit Valley Electric Street..	Oneida .....	April 23, 1890	3.50	50,000
Syracuse Consolidated Street.....	Onondaga .....	May 22, 1890	40	1,250,000
Syracuse Electric .....	Onondaga .....	Feb. 19, 1890	2	30,000
Tonawanda Electric .....	Niagara, Erie .....	June 10, 1890	22	25,000
Tonawanda Street.....	Niagara .....	April 23, 1890	4	50,000
Union Street .....	Kings .....	Mar. 17, 1890	2	10,000
Washington Bridge, Tremont and Westchester.....	New York, Westch'ter	Feb. 6, 1890	6	10,000

## REORGANIZATION.

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The following corporation, viz. : "The Seneca Electric Railway Company," was reorganized during the past year under the name of

"THE SENECA FALLS AND WATERLOO RAILWAY COMPANY."

Certificate of incorporation filed December 7, 1889.

Capital stock, \$40,000.

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## LEASED ROADS.

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The following roads were leased during the year, viz. :

BROADWAY AND SEVENTH AVENUE RAILROAD,

together with all its leased lines, was leased May 13, 1890, to the Houston, West Street and Pavonia Ferry Railroad Company, for unexpired term of charter.

Lease filed in office of Secretary of State, June 14, 1890.

CHAMBERS STREET AND GRAND STREET FERRY RAILROAD

was leased to the Houston, West Street and Pavonia Ferry Railroad Company for 999 years.

Lease filed in office of Secretary of State, January 20, 1890.

CHRISTOPHER AND TENTH STREET RAILROAD

was leased to the Crosstown Railroad Company for unexpired term of charter.

Lease filed in office of Secretary of State, May 22, 1890.

## CONSOLIDATIONS.

The following corporations were consolidated during the year as follows, viz.:

### STEAM ROADS.

NAME OF OLD COMPANY.	Name of present company.	Certificate filed.	Capital stock.
Allegany and Kinzua (N. Y.) and Bradford and Corydon R. R. Co. (Pa.) .....	Allegany and Kinzua R. R. Co	Feb. 25, 1890	\$600,000
Hancock and Pennsylvania, Forest City and State Line, and Scranton and Forest City R. R. Co's .....	Ontario, Carbondale and Scranton Railway Co.....	Oct. 3, 1889	1,500,000
Lackawanna and South-western, and Rochester, Hornellsville and Lackawanna .....	Lackawanna and Southwestern R. R. Co .....	Oct. 2, 1889	2,300,000
Lehigh Valley, Buffalo and Geneva, and Geneva and Van Ettenville R. R. Co's .....	Lehigh Valley Railway Co ...	June 28, 1890	5,000,000
Northern Adirondack, and Northern Adirondack Extension R. R. Co's .....	Northern Adirondack .....	April 9, 1890	400,000
<b>HORSE ROAD.</b>			
Washington Street, Asylum and Park, Binghamton Central, and City Railway Co's .....	Binghamton Street.....	March 24, 1890	100,000

## EXTENSION OF ROUTES.

The following companies have, during the year, filed articles of extension of routes, viz.:

NAME OF ROAD.	Extension filed.	Length of extension.
Brooklyn City Railroad Company .....	Oct. 16, 1889	10,976 feet
City Railway Company (Binghamton).....	Oct. 30, 1890	.80 miles
Coney Island and Brooklyn .....	Feb. 14, 1890	5,000 feet
Crosstown Railroad Company of Rochester.....	Oct. 2, 1889	3,750 feet
Deerfield and Utica Railroad Company .....	Dec. 4, 1889	3 miles
Genesee and Water Street Railroad Company.....	May 13, 1890	10,500 et
Harlem Bridge, Morrisania and Fordham.....	March 4, 1890	.75 lie
Peoples' Railroad Company of Syracuse.....	Oct. 1, 1889	1.75 lie
Peoples' Railroad Company of Syracuse.....	Jan. 2, 1890	.75 lie
South Park Railroad Company of Rochester.....	Oct. 2, 1889	5,000 et
Syracuse and Geddes Railway Company.....	Oct. 24, 1889	1 lie
Woodlawn and Butternut Street Railway .....	Nov. 6, 1889	2 lie

## SURRENDER OF CAPITAL STOCK.

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The capital stock of the following companies was surrendered during the year, to wit: .

**THE AUBURN AND ITHACA RAILROAD COMPANY,**

Surrendered to "The Geneva and Van Ettenville Railroad Company."  
Certificate filed in the office of the Secretary of State, May 13, 1890.

**THE BROOKLYN AND MONTAUK RAILROAD COMPANY,**

Surrendered to "The Long Island Railroad Company."  
Certificate filed in the office of the Secretary of State, October 5, 1889.

**THE CANAL RAILROAD COMPANY,**

Surrendered to "The Elmira, Cortland and Northern Railroad Company."  
Certificate filed in the office of the Secretary of State, April 30, 1890.

**THE CROSSTOWN RAILROAD COMPANY OF ROCHESTER,**

Surrendered to "The Rochester Railway Company."  
Certificate filed in the office of the Secretary of State, April 2, 1890.

**THE GENEVA AND LYONS RAILROAD COMPANY,**

Surrendered to "The New York Central and Hudson River Railroad Company."  
Certificate filed in the office of the Secretary of State, January 20, 1890.

**THE GENEVA AND SAYRE RAILROAD COMPANY,**

Surrendered to "The Geneva and Van Ettenville Railroad Company."  
Certificate filed in the office of the Secretary of State, May 13, 1890.

**THE LINCOLN PARK AND CHARLOTTE RAILROAD COMPANY,**

Surrendered to "The Buffalo, Rochester and Pittsburg Railroad Company."  
Certificate filed in the office of the Secretary of State, December 5, 1889.

**THE NEW YORK ELEVATED RAILROAD COMPANY,**

Surrendered to "The Manhattan Railway Company."  
Certificate filed in the office of the Secretary of State, February 3, 1890.

**THE NIAGARA BRIDGE AND CANANDAIGUA RAILROAD COMPANY,**

Surrendered to "The New York Central and Hudson River Railroad Company."  
Certificate filed in the office of the Secretary of State, January 10, 1890.

**THE PERRY RAILROAD COMPANY,**

Surrendered to "The Buffalo, Rochester and Pittsburg Railroad Company."  
Certificate filed in the office of the Secretary of State, December 5, 1889.

**THE ROCHESTER CITY AND BROOKLYN RAILROAD COMPANY,**

Surrendered to "The Rochester Railroad Company."  
Certificate filed in the office of the Secretary of State, April 2, 1890.

THE ROME, WATERTOWN AND OGDENSBURG TERMINAL RAILROAD COMPANY,  
Surrendered to "The Rome, Watertown and Ogdensburg Railroad  
Company."

Certificate filed in office of Secretary of State, April 28, 1890.

THE SOUTH PARK RAILROAD COMPANY OF ROCHESTER,

Surrendered to "The Rochester City Railroad Company."

Certificate filed in the office of the Secretary of State, April 2, 1890.

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## EXTENSION OF CORPORATE EXISTENCE.

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The following roads have, during the year, filed articles of extension of corporate existence, viz.:

ELMIRA AND HORSEHEADS RAILROAD COMPANY.

Extension, 999 years from December 30, 1920. Articles filed in office of Secretary of State January 8, 1890.

ELEVENTH WARD STREET RAILWAY COMPANY.

Extension, 1,000 years from June 14, 1890.

FIFTH WARD RAILROAD COMPANY.

Extension, 1,000 years from June 14, 1890.

FOURTH WARD RAILWAY COMPANY.

Extension, 1,000 years from June 14, 1890.

GENESEE AND WATER STREET RAILROAD COMPANY.

Extension, 1,000 years from June 14, 1890.

NEW BRIGHTON AND ONONDAGA VALLEY RAILROAD COMPANY.

Extension, 1,000 years from June 14, 1890.

SEVENTH WARD RAILROAD COMPANY.

Extension, 1,000 years from June 14, 1890.

SYRACUSE AND GEDDES RAILWAY COMPANY.

Extension, 1,000 years from June 14, 1890.

SYRACUSE UNION STREET RAILWAY COMPANY.

Extension, 1,000 years from June 14, 1890.

THIRD WARD RAILWAY COMPANY.

Extension, 1,000 years from June 14, 1890.

WOODLAWN AND BUTTERNUT STREET RAILWAY COMPANY.

Extension, 1,000 years from June 14, 1890.

# ENACTMENTS,

1890.

Chap. 4. An act to regulate rates of fare for passenger traffic on the railroad of the Ticonderoga Railroad Company.

Chap. 38. An act to authorize the Seneca Electric Railway to operate any portion of its railroad by electricity instead of locomotive steam power.

Chap. 90. An act to amend section ten of chapter five hundred and thirty-four of the laws of eighteen hundred and seventy-nine, entitled "An act for the preservation of moose, wild deer, birds, fish and other game."

Chap. 95. An act to amend the Code of Civil Procedure.

Chap. 98. An act to amend chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations and to regulate the same," with regard to filing annual and quarterly reports.

Chap. 107. An act granting additional powers to the Rome, Watertown and Ogdensburg Railroad Company, a corporation organized under the laws of this state.

Chap. 140. An act fixing the rate of fare to be charged by the Kinderhook and Hudson Railway Company.

Chap. 184. An act to extend the time for the completion of the Hudson Tunnel Railway.

Chap. 179. An act to amend section nine hundred and eighty-three of the Code of Civil Procedure.

Chap. 247. An act to amend section thirty-three hundred and eighty-three of the Code of Civil Procedure, relating to the condemnation of real property for public use.

Chap. 255. An act to amend chapter three hundred and forty-five of the laws of eighteen hundred and eighty-eight, entitled "An act to provide for the relief of the city of Buffalo, and to change and regulate the crossing and occupation of the streets, avenues and public grounds in said city by railroads."

Chap. 264. An act to authorize the Elmira and Williamsport Railroad Company, incorporated by the state of Pennsylvania, to acquire title to real estate necessary for the operation of its railroad in this state.

Chap. 280. An act to amend section six hundred and thirty-five of the Penal Code.

Chap. 310. An act for the relief of the Brooklyn City Railroad Company, as lessee of the franchise and property of the Brunswick Railroad Company.

Chap. 320. An act to authorize the president and trustees of the village of Wellsville to sell and convey to the Wellsville, Coudersport and Pine Creek Railroad Company a right of way across the lands occupied by said village as a village park.

Chap. 354. An act to authorize the Watervliet Turnpike and Railroad Company to operate its cars on the tracks across the bridge between the city of Troy and the village of West Troy, and in the city of Troy.



Name of Road.	When formed.	Name of Road.	When formed.
Brooklyn (of Brooklyn).....	1858	Broome and DeLancey St. Crosstown.....	1886
Broadway (of New York).....	1884	Broome, DeLancey and Spring Streets.....	1885
Broadway Central Underground.....	1880	Buffalo.....	1890
Broadway, Lexington and Fifth Avenue.....	1884	Buffalo and Allegany Valley.....	1883
Broadway and Rockaway Beach.....	1880	Buffalo, Aurora and South-eastern.....	1882
Broadway and Seventh Avenue.....	1864	Buffalo and Batavia.....	1838
Broadway Surface.....	1884	Buffalo and Black Rock.....	1883
Broadway Underground.....	1880	Buffalo, Bradford and Pittsburg.....	1880
Broadway Underground Connecting.....	1880	Buffalo Branch of the Erie Railway.....	1881
Broadway and Yonkers Patent.....	1866	Buffalo, Cayuga Valley and Pine Creek.....	1882
Brook Avenue.....	1885	Buffalo, Chau. Lake and Pittsburg.....	1879
Brookfield.....	1888	Buffalo City.....	1887
Brooklyn, Bath and Coney Island.....	1862	Buffalo City.....	1877
Brooklyn, Bath and Coney Island.....	1879	Buffalo, Cleveland and Chicago R'y.....	1881
Brooklyn, Bath and West End.....	1879	Buffalo and Conhocton Valley.....	1880
Brooklyn Bridge and South Ferry.....	1887	Buffalo, Corning and New York.....	1882
Brooklyn Bridge and South Shore.....	1886	Buffalo, Corry and Pittsburg.....	1880
Brooklyn and Brighton Beach.....	1887	Buffalo Creek.....	1880
Brooklyn, Bushwick and Queens Co.....	1885	Buffalo Creek Extension.....	1874
Brooklyn Cable.....	1883	Buffalo Creek Transfer.....	1881
Brooklyn Cable.....	1886	Buffalo Crosstown.....	1874
Brooklyn and Canarsie.....	1865	Buffalo Dock and Connecting.....	1880
Brooklyn Central.....	1859	Buffalo East Side Street.....	1878
Brooklyn Central and Jamaica.....	1860	Buffalo Electric and Cable Street.....	1880
Brooklyn City.....	1853	Buffalo and Erie.....	1882
Brooklyn City Elevated.....	1875	Buffalo and Erie.....	1867
Brooklyn City Elevated.....	1879	Buffalo Erie Basin.....	1871
Brooklyn City, Hunter's Point and Prospect Park.....	1868	Buffalo and Geneva.....	1882
Brooklyn City and Newtown.....	1860	Buffalo and Geneva.....	1880
Brooklyn City and Ridgewood.....	1861	Buffalo and Great Western.....	1882
Brooklyn City and Rockaway.....	1862	Buffalo Harbor.....	1880
Brooklyn and Coney Island.....	1876	Buffalo and Hinsdale.....	1884
Brooklyn and Coney Island Central.....	1877	Buffalo and International.....	1867
Brooklyn, Coney Island and Rockaway.....	1878	Buffalo and International Bridge.....	1871
Brooklyn Crosstown.....	1872	Buffalo and Jamestown.....	1871
Brooklyn, East New York and Rockaway.....	1864	Buffalo, Lackawanna and Pacific.....	1880
Brooklyn Elevated.....	1884	Buffalo and Lake Huron.....	1880
Brooklyn Elevated and Atlantic Beach.....	1879	Buffalo Lehigh.....	1881
Brooklyn Elevated Railway Construction Company.....	1882	Buffalo and Lockport.....	1880
Brooklyn Elevated Silent Safety.....	1874	Buffalo and New York.....	1861
Brooklyn, Flatbush and Coney Island.....	1866	Buffalo and New York City.....	1861
Brooklyn, Flatbush and Coney Island.....	1869	Buffalo, New York and Erie.....	1867
Brooklyn, Flatbush and Coney Island Railway.....	1877	Buffalo, New York and Philadelphia.....	1871
Brooklyn, Flatbush and Rockaway Beach.....	1879	Buffalo and Niagara Falls.....	1884
Brooklyn, Fort Hamilton, Bath and Coney Island.....	1836	Buffalo Niagara Slip.....	1877
Brooklyn, Fort Hamilton and Coney Island.....	1867	Buffalo and Oil Creek Cross Cut.....	1885
Brooklyn, Fort Hamilton and Coney Island.....	1881	Buffalo and Pittsburg.....	1882
Brooklyn Heights.....	1887	Buffalo, Pittsburg and St. Louis.....	1882
Brooklyn Heights Cable.....	1886	Buffalo, Pittsburg and Western.....	1880
Brooklyn and Jamaica.....	1832	Buffalo, Pittsburg and Western.....	1881
Brooklyn and Jamaica.....	1866	Buffalo and Rochester.....	1880
Brooklyn and Jersey City Ferry.....	1884	Buffalo, Rochester and Pittsburg.....	1881
Brooklyn and Long Island Cable.....	1884	Buffalo, Rochester and Pittsburg.....	1886
Brooklyn and Long Island City.....	1880	Buffalo, Rochester and Pittsburg.....	1887
Brooklyn and Long Island Trunk.....	1883	Buffalo and South Park Belt Line.....	1887
Brooklyn and Montauk.....	1880	Buffalo and South-western.....	1879
Brooklyn, Middle Village and Jamaica.....	1866	Buffalo and State Line.....	1880
Brooklyn, Prospect Park and Flatbush.....	1867	Buffalo and Springville.....	1871
Brooklyn, Prospect Park and Jamaica Bay.....	1869	Buffalo Street.....	1880
Brooklyn and Queens County.....	1883	Buffalo, Syracuse and Albany.....	1878
Brooklyn and Rockaway.....	1867	Buffalo, Thousand Islands and Portland.....	1880
Brooklyn and Rockaway Beach.....	1864	Buffalo, Tonawanda and Niagara Falls.....	1883
Brooklyn, Rockaway and Coney Island.....	1881	Buffalo, Tonawanda and Niagara River.....	1880
Brooklyn and Sea Shore.....	1871	Buffalo and Washington.....	1885
Brooklyn Steam Transit.....	1869	Buffalo and Williamsville.....	1880
Brooklyn Steam Transit.....	1871	Buffalo and Williamsville.....	1879
Brooklyn Sub-railway.....	1886	Buffalo and Williamsville.....	1884
Brooklyn and Suburban.....	1881	Buffalo, Williamsville and Northern.....	1880
Brooklyn Underground.....	1881	Burnett Street Car.....	188
Brooklyn, Winfield and Newtown.....	1870	Bushwick.....	187
Brooklyn and Winfield Railway.....	1869	Cairo.....	184
		Calvary Cemetery, Greenpoint and Brooklyn.....	186
		Campbell Hall Connecting.....	188
		Canajoharie and Catskill.....	188
		Canal.....	178
		Canandaigua and Bath.....	179
		Canandaigua and Corning.....	180
		Canandaigua and Elmira.....	181

Name of Road.	When formed.	Name of Road.	When formed
Canandaigua Lake.....	1887	City Line and Canarsie.....	1889
Canandaigua and Niagara Falls.....	1881	City of Poughkeepsie.....	1889
Canandaigua, Palmyra and Ontario.....	1872	City (Poughkeepsie).....	1878
Canandaigua Railway and Transportation Company.....	1828	City Railway Company of New York.....	1888
Canandaigua Street.....	1886	Clayton and Theresa.....	1871
Canandaigua and Syracuse.....	1883	Clinton Avenue.....	1864
Canarsie, Brooklyn and Winfield.....	1864	Clinton and South Clinton.....	1883
Canarsie and Flatbush.....	1874	Clove Branch.....	1868
Canastota Northern.....	1886	Clyde and Sodus Bay.....	1863
Canton and St. Lawrence River.....	1886	Coeymans.....	1836
Canton and Waddington.....	1884	Cohoes and Waterford.....	1863
Cassadaga and Erie.....	1886	Cohoes and Waterford.....	1867
Castleton and West Stockbridge.....	1884	Cohoes and Waterford.....	1872
Carthage and Adirondack.....	1888	Cold Springs.....	1839
Carthage, Watertown and Sackett's Harbor.....	1889	Columbia and Rensselaer.....	1886
Catskill City.....	1886	Columbia Street and Erie Basin.....	1866
Catskill Horse.....	1874	Concourse.....	1880
Catskill and Ithaca.....	1828	Conesus Lake.....	1882
Catskill Mountain.....	1880	Coney Island Beach.....	1877
Catskill Mountain.....	1886	Coney Island and Brooklyn.....	1860
Catskill and Schoharie Valley.....	1871	Coney Island Centre and Safety Rails Elevated.....	1880
Cattaraugus.....	1868	Coney Island and East River.....	1876
Cayuga Lake.....	1867	Coney Island Electrical.....	1887
Cayuga Midland.....	1871	Coney Island Elevated.....	1880
Cayuga Northern.....	1872	Coney Island High and Low-water Mark.....	1877
Cayuga Railway.....	1876	Coney Island and Rockaway.....	1878
Cayuga Southern.....	1878	Coney Island and Sea View Elevated.....	1880
Cazenovia and Susquehanna.....	1843	Coney Island, Sheepshead Bay and Ocean Avenue.....	1880
Cazenovia and Canastota.....	1868	Coney Island Surface.....	1877
Cazenovia and Canastota.....	1873	Coney Island Surface.....	1889
Cazenovia, Canastota and De Ruyter.....	1878	Coney Island Transit.....	1880
Cazenovia, Canastota and De Ruyter.....	1876	Connecting Terminal.....	1881
Cazenovia and De Ruyter.....	1872	Cooperstown and Charlotte Valley.....	1888
Cedarhurst.....	1886	Cooperstown and Cherry Valley.....	1887
Central City.....	1869	Cooperstown and Susquehanna Valley.....	1865
Central Crostown.....	1873	Copenhagen and Turin.....	1866
Central Dock and Terminal.....	1889	Cornug and Blossburgh.....	1851
Central Elevated Railway.....	1869	Corning, Cowanesque and Antrim.....	1873
Central Elevated Railway.....	1886	Corning and Olean.....	1853
Central of Long Island.....	1871	Corning and Painted Post.....	1866
Central New England and Western.....	1889	Corning and Seneca Lake.....	1864
Central Park, North and East River.....	1860	Cornwall Branch.....	1869
Central Park and Kings Bridge.....	1866	Cornwall Suspension Bridge.....	1868
Central Railroad Extension.....	1873	Cortland and Homer.....	1882
Central Saratoga.....	1878	Coudersport, Hornellsville and Lackawanna.....	1889
Central of Staten Island.....	1870	Court Street and East End.....	1886
Central (Staten Island).....	1873	Court Street and River Side.....	1883
Central Tunnel.....	1881	Court Street and River Side.....	1885
Central Valley.....	1870	Coxsackie and Schenectady.....	1837
Chambers Street.....	1877	Crostown Street.....	1890
Chambers Street.....	1884	Crostown and Rochester.....	1889
Chambers Street Crostown.....	1880	Croton Valley.....	1885
Chambers Street and Grand St. Ferry.....	1884	Cypress Hill Railway.....	1872
Champlain and St. Lawrence.....	1851	Danville and Rochester.....	1832
Charlotte Lake View.....	1876	Davenport.....	1868
Charlotte and Lake View.....	1881	Delaware.....	1836
Chateaugay.....	1879	Delaware and North River.....	1889
Chateaugay.....	1887	Delaware and Otsego.....	1887
Chautauqua County.....	1851	Delhi and Hudson River.....	1882
Chautauqua Lake.....	1874	Delhi and Middletown.....	1871
Chautauqua Lake.....	1885	Deerfield and Utica.....	1888
Chautauqua Lake.....	1886	Dexter and Ontario.....	1889
Chautauqua Valley.....	1882	Division Avenue.....	1853
Chemung.....	1846	Dry Dock, East Broadway and Battery.....	1883
Chemung and Ithaca.....	1887	Dunderberg Spiral.....	1889
Chenango Valley.....	1863	Dunkirk, Allegheny Valley and Pittsburgh.....	1872
Cherry Valley, Sharon and Albany.....	1869	Dunkirk and Chautauqua Lake.....	1865
Cherry Valley and Mohawk River.....	1864	Dunkirk, Chautauqua Lake and Pittsburgh.....	1873
Cherry Valley and Spraker's Horse Power Railroad Company.....	1860	Dunkirk and Fredonia.....	1864
Cherry Valley and Susquehanna.....	1836	Dunkirk and Junction.....	1879
Christopher and Tenth Street.....	1873	Dunkirk, Warren and Pittsburgh.....	1867
Christopher St. and James Slip Ferry.....	1885	Dunkirk, Warren and Pittsburgh.....	1870
Citizens' Electric.....	1887	Dutchess.....	1882
Citizens' Railway.....	1885	Dutchess.....	1886
Citizens' Street R. R. Co. of Rochester.....	1885	Dutchess and Columbia.....	1866
Citizens' Surface.....	1888		
City (Binghamton).....	1883		
City Island.....	1884		

Name of Road.	When formed.	Name of Road.	When formed.
Dutchess County.....	1890	Flushing.....	1888
Dutchess Extension.....	1889	Flushing.....	1888
East Branch Connecting.....	1889	Flushing and College Point.....	1888
East Brooklyn Railroad.....	1874	Flushing and College Point Electric Street.....	1887
East Brooklyn Railway.....	1873	Flushing and College Point Street.....	1886
East Brooklyn, Winfield and Newtown.....	1867	Flushing, North Shore and Central.....	1874
East Buffalo Terminal.....	1883	Flushing and North Side.....	1889
East Chester.....	1886	Flushing Village.....	1871
Eastern Branch of the Dutchess and Columbia.....	1868	Flushing and Woodside.....	1884
Eastern Railroad Company of Long Island.....	1879	Fonda and Fultonville.....	1873
East Genesee Street and Seward Ave.....	1871	Fonda, Johnstown and Gloversville.....	1885
East Genesee Street and Seward Avenue Railway.....	1881	Forestport.....	1886
East New York, Bayside and Ozone Park.....	1885	Fort Ann and Mount Hope.....	1871
East New York and Jamaica.....	1860	Fort Edward, Glens Falls and Sandy Hill.....	1882
East New York and Jamaica Bay.....	1865	Fort Hamilton and Coney Island.....	1882
East and North River.....	1861	Fort Hamilton and New York Elevated.....	1889
East and North River.....	1884	Fort Plain and Richfield Springs.....	1887
East River Bridge and Coney Island Transit.....	1881	Fort Plain Street.....	1887
East River, Central Park and North River.....	1889	Fort Pond Bay.....	1883
East River and Connecticut Railway.....	1881	Forty-second Street Crosstown.....	1887
East River Connecting.....	1890	Forty-second St. and Grand St. Ferry.....	1880
East River and Newtown.....	1885	Forty-second Street, Manhattanville and St. Nicholas Avenue.....	1873
East River Tunnel.....	1885	Fourteenth Street District Railway.....	1882
East Side and Mt. Vernon Railway.....	1891	Fourth Ward (Syracuse).....	1882
East Side and New Rochelle Patent Railway.....	1866	Frankfort and Ilion.....	1871
East Side Railway.....	1868	Franklin Avenue.....	1887
East Side of Rochester.....	1887	Fredonia and Van Buren.....	1888
East and West.....	1890	Friendship.....	1881
East and West Ferries.....	1887	Fulton.....	1884
Eighth Avenue.....	1855	Fulton and Cortland Street Ferry.....	1884
Eighth Ward.....	1889	Fulton and Cortland Street Ferry Rail- way.....	1884
Eleventh Ward Street.....	1889	Fulton Elevated.....	1886
Elmira, Canandaigua and Niagara Falls.....	1857	Fulton Ferry and Canarsie Bay.....	1886
Elmira Connecting.....	1882	Fulton Ferry and Prospect Park.....	1887
Elmira, Cortland and Northern.....	1884	Fulton Ferry and Tenth Avenue.....	1885
Elmira and Horseheads.....	1871	Fulton and Oswego Falls.....	1884
Elmira, Jefferson and Canandaigua.....	1859	Fulton and Oswego Falls Street.....	1886
Elmira and Lake Ontario.....	1886	Fulton Street Crosstown.....	1887
Elmira State Line.....	1872	Fulton, Wall Street and Cortland Street Ferries.....	1885
Elmira Transfer.....	1885	Gallupville.....	1880
Elmira and Williamsport.....	1832	Garnerville.....	1873
Elmira and Williamsport.....	1860	Geddes Street Railway.....	1886
Erle and Black Rock.....	1882	Genesee Falls.....	1886
Erle and Cattaraugus.....	1837	Genesee and Hudson.....	1883
Erle and Central New York.....	1893	Genesee Valley.....	1884
Erle and Genesee Valley.....	1868	Genesee Valley Canal.....	1889
Erle International.....	1872	Genesee Valley Junction.....	1886
Erle and New England.....	1868	Genesee Valley Terminal.....	1886
Erle and New York City.....	1852	Genesee and Water Street.....	1887
Erle and Niagara River.....	1892	Genesee.....	1880
Erle Railway.....	1861	Genesee and Pittsford.....	1886
Erle, Rochester and Lake Ontario Ter- minal.....	1884	Geneva and Canandaigua.....	1886
Far Rockaway Beach.....	1881	Geneva and Cattaraugus.....	1887
Far Rockaway Branch.....	1868	Geneva and Hornellsville.....	1873
Ferry Crosstown.....	1885	Geneva, Hornellsville and Pine Creek.....	1873
Fifth Avenue.....	1884	Geneva and Ithaca.....	1880
Fifth Avenue.....	1885	Geneva, Ithaca and Athens.....	1874
Fifth Ward.....	1868	Geneva, Ithaca and Sayre.....	1877
Fifty-second, Fifty-third Streets and Boulevard.....	1886	Geneva and Lyons.....	1877
Fifty-ninth Street.....	1885	Geneva and Sayre.....	1880
Fiftieth street, Astoria Ferry and Cen- tral Park.....	1890	Geneva and South-western.....	1871
First Avenue and Jersey Ferries.....	1864	Geneva, South-western and Hornells- ville.....	1873
Fish House and Amsterdam.....	1832	Geneva and Van Ettenville.....	1886
Fishkill.....	1868	Gilbert Elevated.....	1883
Fishkill and Matteawan Street.....	1886	Gilboa.....	1880
Fishkill and Newburgh.....	1876	Glendale and East River.....	1874
Fitchburgh.....	1842	Glens Falls.....	1886
Flatbush, Coney Island and Canarsie.....	1884	Glens Falls, Sandy Hill and Fort Edw'd Glens Falls Street.....	1886
Flatbush, Coney Island Park and Con- course.....	1876	Gloversville and Kingsboro.....	1884
		Gloversville, Mayfield and Northville.....	1886
		Gloversville and Northville.....	1871
		Goshen and Albany.....	1883
		Goshen and Deckertown.....	1887
		Goshen and New Jersey.....	1887

Name of Road.	When formed.
Grand Street	1889
Grand Street Central Transit	1884
Grand Street Ferry and Middle Village	1869
Grand Street and Maspeth	1859
Grand Street and Newtown	1860
Grand Street, Prospect Park and Flat-bush	1870
Grand View Beach	1889
Gravesend, Flatlands, Flatbush and Brooklyn	1890
Great Ausable	1828
Great Valley and Bradford	1881
Greene	1838
Greene	1869
Greenpoint and Calvary	1865
Greenpoint and Lorimer Street	1884
Greenpoint, Prospect Park and Greenwood	1866
Greenpoint and Williamsburgh	1864
Greenwich and Johnsonville	1869
Greenwich and Johnsonville	1874
Greenwich and Johnsonville Railway	1879
Greenwood and Coney Island	1872
Greenwood Lake and Port Jervis	1888
Hamilton Avenue and Prospect Park	1869
Hamilton Avenue, Prospect Park and Flatbush	1868
Hamilton Ferry and Canarsie	1870
Hancock and Pennsylvania	1883
Hancock and State Line	1889
Harlem Bridge, Morrisania and Fordham	1863
Harlem, Brook Avenue and Woodstock	1890
Harlem Crosstown	1885
Harlem Extension	1870
Harlem, Mott Haven and Morris Avenue	1890
Harlem River	1843
Harlem River and High Bridge	1853
Harlem River and Port Chester	1866
Harlem River and Port Chester Rapid Transit	1880
Harlem River and Woodstock	1886
Harlem River and Tarrytown	1864
Harlem and Riverdale Park	1885
Hartford and Connecticut Western	1881
Hart's Corners, Ovid and Willard	1882
Hempstead and Jamaica	1865
Hempstead and Smithtown	1873
Hempstead and Rockaway	1870
Herkimer and Mohawk	1871
Herkimer, Newport and Poland Narrow Gauge	1880
Herkimer and Trenton	1836
Hicksville and Cold Spring Branch	1853
Hicksville and Huntington	1865
High Bridge	1866
High Bridge Elevated Incline	1883
Highland Junction	1881
Highland Trans-Hudson	1881
Hobart Branch	1884
Honeoye	1836
Hosack Tunnel and Saratoga Railway	1881
Hornell Street	1888
Hornellville	1888
Hornellville and Almond Street	1873
Hornellville and Cohocton Valley	1882
Hornellville and West Union	1889
Horseheads and Elmira Avenue	1871
Houston and Hoboken	1885
Houston, West Ave. and Pavonia Ferry	1874
Hudson Avenue	1867
Hudson and Berkshire	1828
Hudson and Boston	1855
Hudson Connecting	1887
Hudson and Delaware	1830
Hudson Electric	1888
Hudson and Kinderhook	1871
Hudson and Mohawk	1869
Hudson River	1846

Name of Road.	When formed.
Hudson River and Boston	1888
Hudson River West Shore	1867
Hudson and St. Lawrence	1872
Hudson, Suspension Bridge and New England	1870
Hudson Tunnel	1873
Hudson Tunnel	1880
Hudson Tunnel of New York	1880
Hudson Tunnel Railway	1880
Hudson Valley	1870
Hudson and West Shore	1860
Hunter's Point Avenue and Calvary Cemetery	1889
Hunter's Point and Flushing	1872
Hunter's Point, Raven's d and Astoria	1864
Hunter's Point and Rockaway Beach	1867
Hunter's Point and South Side	1870
Huntington Street	1887
Huntington Street	1890
Ilion Street	1875
International	1861
Iron Hill	1873
Island	1883
Ithaca	1864
Ithaca and Athens	1870
Ithaca and Auburn	1836
Ithaca, Auburn and Western	1876
Ithaca and Cortland	1869
Ithaca and Geneva	1832
Ithaca and Oswego	1828
Ithaca and Port Renwick	1834
Ithaca and Tonawanda	1866
Jackson and Steilway Avenue Railroad Company of Long Island	1879
Jamaica and Brooklyn Road	1880
Jamaica and Middle Village	1866
Jamaica, Woodhaven and Brooklyn	1872
Jamestown	1871
Jamestown	1883
Jamestown and Northern	1885
Jamestown Short Line Railway	1886
Jamestown Street	1882
Janesville	1836
Jerome Avenue	1889
Jerome Park	1880
Jerome Park Branch	1876
Jersey City and Albany	1873
Jersey City and Albany Railway	1879
Jersey City and Albany Railway Company of the States of New York and New Jersey	1879
Jersey Ferries and First Avenue	1865
Johnsonville and Rutland	1890
Johnstown	1836
Johnstown, Gloversville and Kingsboro	1873
Jordan and Skaneateles	1837
Junction	1870
Junction Railway	1865
Kanona and Plattsburgh	1886
Kaaterskill	1882
Keeseville, Ausable Chasm and Lake Champlain	1889
Keeseville and Montreal	1869
Kinderhook and Hudson	1889
Kinderhook, Valatie and Stuyvesant	1887
Kinderhook, Valatie and Niverville	1887
Kings Bridge Cable Railway	1886
Kings Bridge, High Bridge and Forty-second street	1864
Kings Bridge and Yonkers	1876
Kings County	1878
Kings County Central	1876
Kings County Elevated	1879
Kingston City	1879
Kingston and Rondout	1865
Kingston Turnpike and Railroad Co.	1885
Kingston, Warwick and Easton	1883
Lackawanna and Pittsburg	1888
Lackawanna and South-western	1889
Lackawanna and Susquehanna	1867



Name of Road.	When formed.	Name of Road.	When formed.
Lake Champlain and Moriah .....	1867	Metropolitan Elevated .....	1873
Lake Champlain and Ogdensburgh .....	1832	Metropolitan Elevated .....	1873
Lake Mahopac and Connecticut .....	1886	Metropolitan Railroad .....	1864
Lake Ontario .....	1874	Metropolitan Railway .....	1864
Lake Ontario and Auburn .....	1856	Metropolitan Surface .....	1865
Lake Ontario, Auburn and New York .....	1852	Metropolitan Surface .....	1866
Lake Ontario and Hudson River .....	1857	Metropolitan Transit .....	1867
Lake Ontario Shore .....	1868	Metropolitan Transit .....	1867
Lake Ontario Southern .....	1880	Middleburgh and Schoharie .....	1878
Lake and River Improvement and Railroad Land Company of the New York Wilderness .....	1885	Middle Central .....	1878
Lake Shore and Michigan Southern .....	1869	Middletown and Crawford .....	1868
Lansingburgh and Cohoes .....	1880	Middletown Horse .....	1870
Lansingburgh and Troy .....	1863	Middletown Street .....	1869
Lansingburgh and Troy .....	1872	Middletown, Unionville and Water Gap .....	1866
Larchmont .....	1888	Middle Village .....	1867
Laurel Hill, New Calvary and Lutheran Cemetery .....	1885	Midwout, Amersfort and Coney Island .....	1877
Lawrenceville and Erie .....	1874	Mohawk and Hudson .....	1886
Lebanon Springs .....	1862	Mohawk and Lake Erie Railway .....	1881
Lehigh and Hudson River .....	1862	Mohawk and Moose River .....	1887
Lehigh Valley .....	1862	Mohawk and St. Lawrence Railroad Navigation Company .....	1887
Lehigh Valley .....	1862	Mohawk and Susquehanna Valley .....	1887
Lewiston .....	1836	Mohawk Valley .....	1861
Lexington Ave. and Fourteenth Street .....	1884	Mohawk Valley and Piseco .....	1863
Lexington Avenue and South Ferry .....	1886	Monroe and Greenwood Lake .....	1877
Lincoln Park and Charlotte .....	1888	Montague Street Railway .....	1885
Little Falls, Delgeville and Piseco Lake .....	1883	Montgomery and Erie .....	1886
Little Falls, Van Hornesville and Ot- sego Lake Narrow Gauge .....	1889	Montgomery and Erie .....	1886
Liverpool and Syracuse .....	1868	Montgomery and Erie .....	1886
Lockport .....	1886	Monticello, Fallsburgh and New York .....	1888
Lockport and Batavia .....	1836	Monticello and Port Jervis .....	1888
Lockport and Buffalo .....	1871	Montreal and Plattsburgh .....	1868
Lockport and Niagara Falls .....	1834	Morris Avenue .....	1886
Lockport and Northern .....	1889	Mount McGregor .....	1882
Lockport and Youngstown .....	1836	Mount McGregor .....	1889
Locust Grove and Brighton Beach .....	1879	Mount Prospect and Carroll Street .....	1873
Long Beach Marine .....	1881	Mount Vernon and East Chester .....	1886
Long Island .....	1834	Mount Vernon and East Chester .....	1887
Long Is'd City and Calvary Cemetery .....	1871	Mount Vernon and Yonkers .....	1886
Long Island City and Flushing .....	1881	Myrtle Avenue Branch .....	1861
Long Is'd City and Manhattan Beach .....	1883	Nanuet and New City .....	1871
Long Island City and Maspeth .....	1873	Nassau .....	1866
Long Island City and Newtown .....	1883	Nassau Cable .....	1884
Long Island City and Sea Beach .....	1886	Never-Ink Valley .....	1899
Long Island City Shore .....	1874	Newark .....	1834
Long Island Elevated Railway .....	1886	New Brighton and Onondaga Valley .....	1889
Lyons Street Surface .....	1889	Newburgh, Dutchess and Connecticut .....	1877
Madison Ave. and Eighty-sixth Street .....	1885	Newburgh .....	1866
Madison Ave. and Twenty-third Street .....	1885	Newburgh .....	1863
Madison Avenue Underground .....	1890	Newburgh .....	1866
Madison County .....	1829	Newburgh and Kingston .....	1889
Mahopac Falls .....	1884	Newburgh and Middletown .....	1866
Main and Ohio Street .....	1859	Newburgh and Midland .....	1879
Malden .....	1837	Newburgh and New York Railroad .....	1864
Malden .....	1863	Newburgh and New York Railroad .....	1865
Malone and Canada .....	1883	Newburgh and Poughkeepsie .....	1887
Manhattan Beach Extension .....	1883	Newburgh and Wallkill Valley .....	1868
Manhattan Beach and West Brighton .....	1879	New England, New York and Pennsylv- ania .....	1873
Manhattan Elevated .....	1875	New England, Lackawanna and Pitts- burgh .....	1883
Manhattan Railroad .....	1879	New England and South-western .....	1886
Manhattan Railway .....	1864	New England and Western .....	1887
Manhattan Railway .....	1867	New Jersey and Hudson River .....	1881
Manhattan Surface .....	1887	New Jersey and New England .....	1873
Mann's Boudoir Car .....	1883	New Jersey and New York .....	1873
Manheim and Salisbury .....	1834	New Jersey and New York Extension .....	1886
Maple Avenue .....	1887	New Jersey and Staten Island Junc- tion .....	1886
Marginal .....	1877	New Rochelle and Pelham .....	1880
Marine .....	1878	New Rochelle Street Horse Railroad .....	85
Maspeth Railroad and Bridge Comp'y .....	1868	New Rochelle Street Horse Railway .....	85
Massena Springs and Fort Covington .....	1884	Newtown and Flushing .....	87
Mayville Extension .....	1881	New Williamsburgh and Flatbush .....	73
Mayville and Portland .....	1832	New York .....	80
Mechanville and Fort Edward .....	1880	New York and Albany .....	87
Medina and Darien .....	1884	New York and Albany .....	87
Medina and Lake Ontario .....	1836	New York and Atlantic .....	80
Melrose and West Morrisania .....	1886	New York and Atlantic Coast .....	80
Metropolitan Croastown .....	1889	New York, Bay Ridge and Jamaica .....	74
		New York and Boston .....	89

Name of Road.	When formed.	Name of Road.	When formed.
New York, Boston and Albany.....	1880	New York, Ontario and Western.....	1880
New York, Boston, Albany and Sche- nectady.....	1880	New York and Oswego Midland.....	1866
New York and Boston Extension.....	1872	New York, Pennsylvania and Ohio.....	1880
New York, Boston and Montreal.....	1873	New York, Pennsylvania and Western.....	1881
New York and Boston Inland.....	1882	New York Quick Transit.....	1874
New York, Boston and Northern.....	1873	New York Railway.....	1871
New York and Brighton Beach.....	1879	New York, Richfield Springs and Coop- erstown.....	1882
New York and Brooklyn Elevated.....	1880	New York and Rockaway.....	1871
New York and Brooklyn Marine.....	1880	New York and Rockaway Beach.....	1876
New York, Brooklyn and Manhattan Beach.....	1885	New York and Rockaway Beach.....	1887
New York, Brooklyn and Rockaway.....	1881	New York, Rockaway and Long Island.....	1880
New York, Brooklyn and Sea Beach.....	1878	New York, Rutland and Montreal.....	1883
New York, Brooklyn and Sea Shore.....	1877	New York and Sea Beach Railroad.....	1876
New York and Brighton Beach.....	1878	New York and Sea Beach Railway.....	1883
New York Cable.....	1884	New York, Sea Beach and Coney Island.....	1878
New York and Canada.....	1872	New York and South Side.....	1874
New York Central.....	1853	New York State.....	1873
New York District Railway.....	1885	New York Suburban Railway.....	1886
New York and Palisade.....	1885	New York Surface Railway.....	1886
New York Central and Hudson River.....	1869	New York and Troy.....	1852
New York Central, Hudson River and Fort Orange.....	1884	New York Tunnel.....	1880
New York Central Niagara River.....	1877	New York Underground.....	1880
New York, Chicago and St. Louis Rail- way.....	1881	New York Underground Extension.....	1874
New York, Chicago and St. Louis.....	1887	New York, Utica and Ogdensburgh.....	1870
New York City.....	1884	New York and Westchester.....	1887
New York City Crosstown.....	1863	New York, Westchester and Boston.....	1872
New York City Underground.....	1868	New York and Westchester County.....	1869
New York City and Northern.....	1878	New York, Westchester and Putnam.....	1877
New York City Rapid Transit.....	1872	New York, Westchester and Putnam.....	1887
New York City Suburban Surface.....	1889	New York and Western.....	1863
New York and Coney Island.....	1879	New York Western Midland.....	1872
New York, Coney Island and Rockaway.....	1879	New York, West Shore and Buffalo.....	1880
New York and Connecticut.....	1846	New York, West Shore and Buffalo Railway.....	1881
New York, Connecticut and Eastern, of New York.....	1880	New York, West Shore and Chicago.....	1870
New York and Croton River.....	1871	New York and White Plains.....	1871
New York and Croton River Extension.....	1872	New York, Woodhaven and Rockaway.....	1877
New York, Danbury and Boston.....	1883	New York and Yonkers.....	1859
New York and East River.....	1882	Niagara Bridge and Canandaigua.....	1858
New York Elevated.....	1871	Niagara Falls.....	1871
New York and Erie.....	1832	Niagara Falls Branch.....	1875
New York and Flushing.....	1859	Niagara Falls, Buffalo and New York.....	1882
New York, Fordham and Bronx River.....	1883	Niagara Falls and Lake Ontario.....	1852
New York, Fort Hamilton and Coney Island.....	1880	Niagara Falls and La Salle.....	1890
New York, Greenwood and Coney Island.....	1879	Niagara Falls and Lewiston.....	1849
New York Harbor.....	1887	Niagara Falls and Suspension Bridge.....	1882
New York and Harlem.....	1831	Niagara Falls and Whirlpool Railway.....	1866
New York and Hempstead.....	1871	Niagara River.....	1890
New York and Hempstead Plains.....	1870	Niagara River Street.....	1882
New York and Highland Suspension Bridge Company.....	1869	Niagara River and Erie.....	1889
New York, Housatonic and Northern.....	1864	Niagara River and New York Air Line.....	1872
New York and Jamaica.....	1859	Niagara Street.....	1869
New York, Kingston and Syracuse.....	1872	Ninth Avenue.....	1869
New York, Lackawanna and Western.....	1880	North and East Greenbush.....	1873
New York and Lake Mahopac.....	1861	North and East Greenbush.....	1882
New York, Lake Erie and Western.....	1878	North and East River.....	1885
New York and Long Beach.....	1880	Northern.....	1845
New York and Long Island.....	1887	Northern Adirondack.....	1883
New York, Long Island and Rockaway.....	1879	Northern Adirondack Extension.....	1886
New York and Mahopac.....	1871	Northern Air Line.....	1869
New York and Manhattan Beach.....	1877	Northern Central New York.....	1867
New York and Massachusetts.....	1887	Northern Extension of Rochester, Niagara and Pittsburg.....	1872
New York and Newburgh.....	1864	Northern of New Jersey.....	1864
New York and New England.....	1873	Northern New York.....	1870
New York, New Haven and Hartford.....	1872	Northern Railroad Company of Long Island.....	1881
New York and New Jersey.....	1873	Northern Slackwater and Railroad Co.....	1846
New York and New Jersey Tunnel.....	1883	Northern New York.....	1885
New York and New Rochelle.....	1862	North Park.....	1872
New York Northern.....	1866	North River.....	1880
New York Northern.....	1880	North River.....	1881
New York Northern.....	1883	North River and Wall Street Ferry.....	1862
New York and Northern.....	1887	North Second Street and Middle Village.....	1871
New York Northern Central.....	1865	North Side of Long Island.....	1867
New York and North Salem.....	1871	North Side Railroad Company of Rochester.....	1887
		North Side (Staten Island).....	1871
		North Shore.....	1863
		North Shore of Long Island.....	1870

Name of Road.	When formed.	Name of Road.	When formed.
North Shore and Port Washington.....	1874	Piermont and Nyack.....	1864
North Third and Fleetwood.....	1890	Piermont West Shore.....	1867
Norwood and Montreal.....	1884	Pine Plains and Albany.....	1872
Nostrand Avenue and Park.....	1870	Pine Plains and Rhinebeck.....	1872
Nyack and Northern.....	1868	Pittsburg, Chautauqua and Lake Erie.....	1868
Oak Hill Iron.....	1880	Pittsburg, Lackawanna and North Eastern.....	1868
Oatka Valley.....	1883	Pittsburg, Titusville and Buffalo.....	1860
Ocean Bay and Sheepshead Bay Rail-way.....	1881	Pittsburg and Montreal.....	1860
Ocean Palace Elevated.....	1877	Pittsburg and Rouse's Point.....	1861
Ocean Parkway Transit.....	1888	Portage and Cuba Low Grade.....	1882
Ogdensburg.....	1867	Port Byron and Auburn.....	1829
Ogdensburg.....	1886	Port Chester and Tarrytown.....	1862
Ogdensburg, Clayton and Rome.....	1863	Port Chester and Rye Beach Street.....	1867
Ogdensburg and Lake Champlain.....	1864	Port Chester, White Plains and Tarrytown Street.....	1868
Ogdensburg and Morristown.....	1871	Port Dickinson and Chenango River.....	1881
Ogdensburg and Morristown.....	1877	Port Jervis Electric.....	1899
Ogdensburg Street Railway.....	1885	Port Jervis and Monticello.....	1873
Olean.....	1880	Port Jervis, Monticello and New York.....	1866
Olean, Bradford and Warren.....	1877	Port Jervis and Suburban.....	1869
Olean Street.....	1880	Port Morris and Westchester.....	1861
Olean and Salamanca.....	1882	Potsdam and Montreal.....	1881
Oneida.....	1885	Potsdam and Watertown.....	1862
Oneida Horse.....	1874	Poughkeepsie Bridge.....	1866
Oneida, Oneonta and New York.....	18-9	Poughkeepsie City.....	1866
Oneida Street.....	1887	Poughkeepsie and Connecticut.....	1866
Oneida Valley.....	1864	Poughkeepsie Connecting.....	1867
One Hundred and Fifty-fifth Street.....	1886	Poughkeepsie and Delaware Valley.....	1867
One Hundred and Sixteenth Street and Port Lee Ferry.....	1885	Poughkeepsie and Eastern.....	1866
One Hundred and Twenty-fifth Street.....	1871	Poughkeepsie Grand Junction.....	1879
Oneonta.....	1867	Poughkeepsie and Grand Junction.....	1879
Oneonta and Earlville.....	1872	Poughkeepsie, Hartford and Boston.....	1875
Oneonta and Earlville.....	1889	Poughkeepsie, Hartford and New England.....	1867
Oneonta and Otego Valley.....	1887	Poughkeepsie and Hudson.....	1869
Oneonta and Richfield Springs.....	1889	Poughkeepsie and South-eastern.....	1868
Ontario Southern.....	1876	Poughkeepsie and South-western.....	1863
Orange County.....	1877	Poughkeepsie Terminal.....	1867
Orange County.....	1889	Prospect Park and Clarkson Street.....	1873
Ossining.....	1888	Prospect Park and Coney Island.....	1867
Oswego.....	1885	Prospect Park and Coney Island.....	1874
Oswego, Binghamton and New York.....	1855	Prospect Park and Flatbush.....	1873
Oswego City (Street).....	1870	Prospect Park and Sea Side.....	1879
Oswego City and Town.....	1872	Prospect Park and South Brooklyn.....	1868
Oswego and Cortland.....	1836	Putnam and Dutchess.....	1871
Oswego Northern and Eastern.....	1863	Queen City Street.....	1867
Oswego and Rome.....	1863	Queens County.....	1871
Oswego and Syracuse.....	1839	Queens Railway.....	1872
Oswego and Troy.....	1854	Rensselaerville and Berne.....	1862
Oswego and Utica.....	1836	Rensselaer and Saratoga.....	1867
Otis Elevating Railway.....	1885	Rhinebeck and Connecticut.....	1860
Otsego.....	1832	Richfield Springs and Cherry Valley.....	1862
Ottawa, St. Lawrence and Schenectady.....	1885	Richfield Springs and Otsego Lake.....	1866
Ottawa, Waddington and New York.....	1884	Richmond County.....	1866
Railway and Bridge Company of New York.....	1884	Riker Avenue and Sanford's Point.....	1866
Owasco River Railway.....	1841	Rochester.....	1833
Oyster Bay Extension.....	1886	Rochester.....	1860
Park Avenue.....	1870	Rochester Cable.....	1867
Park Avenue.....	1882	Rochester and Canal.....	1861
Peekskill Valley.....	1867	Rochester and Charlotte.....	1866
Pelham Park.....	1884	Rochester and Charlotte.....	1861
Pelham and Port Chester.....	1872	Rochester and Charlotte Boulevard.....	1872
Pelham and Traver's Island.....	1889	Rochester City and Brighton.....	1862
Pennfield and Canal.....	1837	Rochester Electric.....	1867
Pennsylvania and Erie Coal and Rail-way Company.....	1875	Rochester City and Brighton Terminal.....	1867
Pennsylvania, Poughkeepsie and Bos-ton.....	1887	Rochester and Genesee Valley.....	1861
Pennsylvania, Slatington and New England.....	1882	Rochester and Genesee Valley Canal.....	1879
Pennsylvania and Sodus Bay.....	1870	Rochester and Glen Haven.....	1867
Penn Yan and Geneva.....	1875	Rochester and Honeoye Valley.....	1867
Penn Yan and New York.....	1877	Rochester, Hornellsville and Lacka-wanna.....	1868
People's.....	1880	Rochester, Hornellsville and Pine Creek.....	1868
People's Electric Street.....	1888	Rochester and Irondequoit.....	1868
People's Rapid Transit.....	1888	Rochester and Lake Beach.....	1868
People's Surface Railway.....	1885	Rochester and Lake Ontario.....	1868
People's, Syracuse.....	1887	Rochester and Lake Ontario.....	1868
Parry.....	1882	Rochester, Lake Side and Braddock's Bay.....	1868
Perth Amboy.....	1885	Rochester and Lockport.....	1868



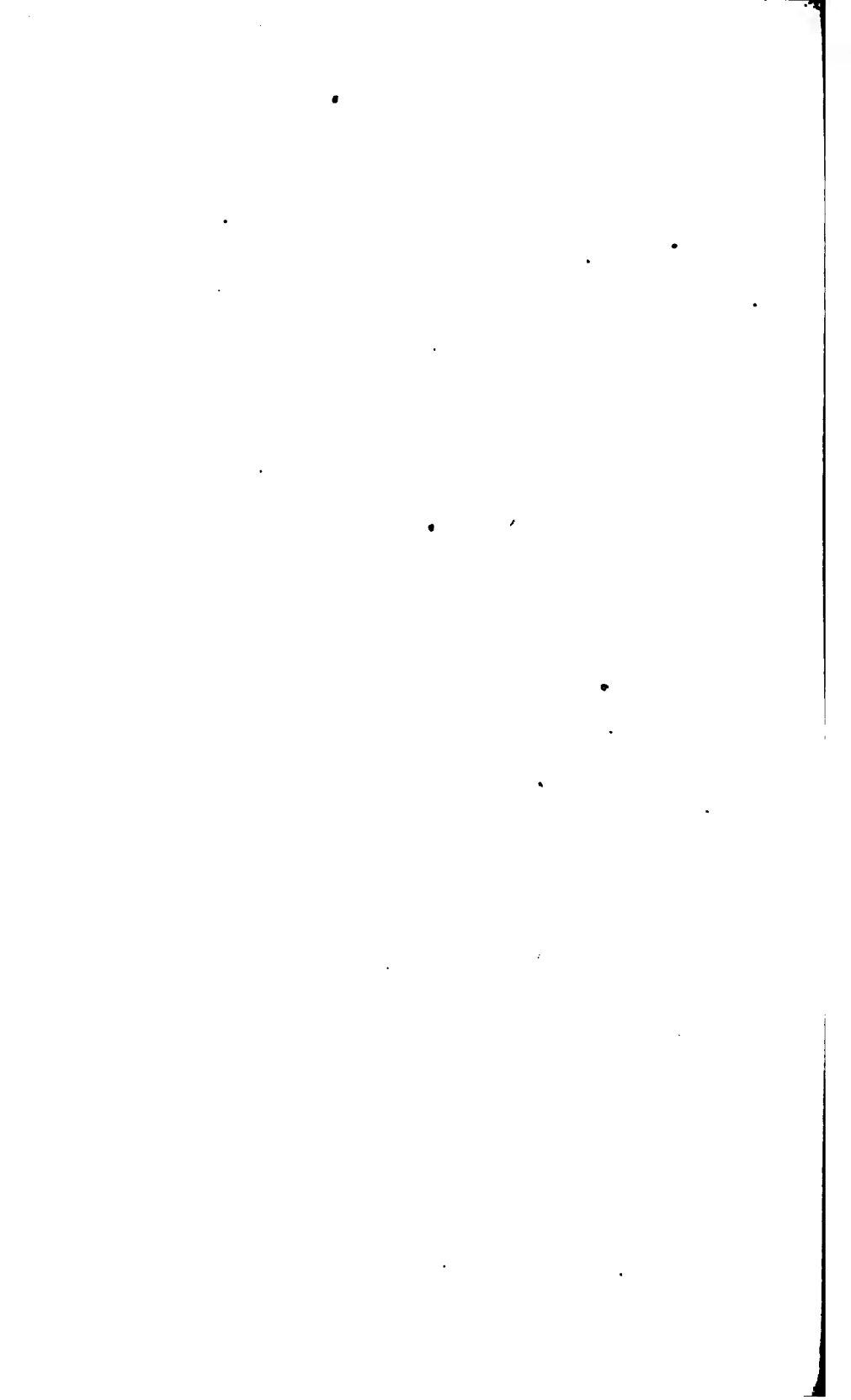
Name of Road.	When formed.	Name of Road.	When formed.
Rochester, Lockport and Niagara Falls	1850	Schenectady	1886
Rochester, New York and Pennsylvania	1880	Schenectady and Albany	1890
Rochester, New York and Pennsylvania	1881	Schenectady, Albany and North Adams	1882
Rochester, Nunda and Pennsylvania	1870	Schenectady and Catskill	1846
Rochester, Nunda and Pennsylvania	1872	Schenectady and Catskill	1863
Rochester, Nunda and Pennsylvania Extension	1872	Schenectady City	1873
Rochester, Nunda and Pittsburgh	1877	Schenectady and Duaneburgh	1873
Rochester and Ontario Belt	1882	Schenectady and Mechanicville	1867
Rochester and Pine Creek	1870	Schenectady and Ogdensburgh	1872
Rochester and Pittsburg	1863	Schenectady and Ogdensburgh Nar- row Gauge	1882
Rochester and Pittsburg	1881	Schenectady and Susquehanna	1846
Rochester and Pittsburg	1882	Schenectady and Susquehanna	1869
Rochester and Southern	1862	Schenectady and Susquehanna	1870
Rochester and Southern	1881	Schenectady and Troy	1836
Rochester State Line	1870	Schenectady and Ulrica Railway	1866
Rochester and Syracuse	1850	Schoharie and Otsego	1832
Rochester Terminal	1886	Schoharie Street	1872
Rochester and Windsor Beach Railway	1881	Schoharie Valley	1866
Rockaway Beach and Far Rockaway		Schoharie Valley	1874
Marlee	1879	Schoharie Valley Railway	1880
Rockaway Beach Railroad	1871	Schuylerville and Fort Edward	1870
Rockaway Beach Transit	1881	Schuylerville and Moreau	1870
Rockaway and Brooklyn	1863	Schuylerville and Upper Hudson	1869
Rockaway Electric	1845	Schuylerville and Upper Hudson	1872
Rockaway Elevated	1878	Scottsville and Canandaigua	1838
Rockaway Railway	1871	Scottsville and LeRoy	1836
Rockaway Surf	1880	Sea Beach and Brighton	1886
Rockaway Village	1886	Sea Beach and Sheephead Bay	1886
Rockland Central	1870	Sea Breeze Avenue	1881
Rockland Central Extension	1872	Sea Cliff Inclined Cable	1886
Rockland Lake	1886	Sea Side Elevated	1880
Rockland Lake and Valley Cottage	1882	Sea Side and Brooklyn Bridge Elevated	1890
Rome and Boonville	1882	Sea Side Transit	1880
Rome and Cathage	1888	Sea View	1886
Rome City	1885	Sea View of Coney Island	1880
Rome and Clinton	1869	Second Avenue	1853
Rome and Port Ontario	1837	Sedge Bank	1876
Rome Street	1874	Seneca Falls and Cayuga Lake	1886
Rome and Sylvan Beach	1888	Seneca Falls, Restvale and Cayuga Lake Street	1886
Rome, Watertown and Ogdensburgh	1860	Seneca Falls and Waterloo	1886
Rome, Watertown and Ogdensburgh Terminal	1886	Seneca Lake Branch	1868
Rondout and Kingston	1863	Seventh Ward Railway	1886
Rondout and Oswego	1866	Sharon and Root	1838
Rondout and Port Jervis Railroad	1865	Sheephead Bay and Coney Island	1877
Roslyn and Huntington	1874	Sheephead Bay and Sea Shore	1865
Rutland and Whitehall	1836	Silver Lake	1870
Rye Lake	1874	Silver Lake	1877
Rye and Westchester	1871	Sixth Avenue	1851
Sacandaga Valley	1871	Skaneateles	1836
Sackett's Harbor and Ellsburgh	1851	Skaneateles	1866
Sackett's Harbor, Rome and New York	1860	Skaneateles and Jordan	1841
Sackett's Harbor and Saratoga	1852	Smithtown and Port Jefferson	1870
Sackett's Harbor and Watertown	1855	Sodus Bay and Corning	1872
Sackett Street	1866	Sodus Bay, Corning and New York	1870
St. Lawrence Valley	1873	Sodus Bay and Southern	1883
St. Nicholas Avenue and Crostawn	1885	Sodus Point and Southern	1852
Salamanca, Bedford and Allegany River	1881	South Beach	1889
Salamanca and Warren	1881	South Brooklyn	1878
Salina and Oakwood Railway	1886	South Brooklyn and Bergen Street	1863
Salina and Port Watson	1829	South Brooklyn and Flatbush	1866
Saranac and Lake Placid	1890	South Brooklyn Central	1877
Saratoga Electric	1889	South Brooklyn Central	1887
Saratoga and Fort Edward	1832	South Brooklyn Railroad and Terminal	1887
Saratoga and Hudson River	1864	South Brooklyn Street	1886
Saratoga Lake	1880	South Brooklyn and Park	1870
Saratoga Street	1887	South Cairo and East Durham	1841
Saratoga and Montgomery	1836	South Ferry	1874
Saratoga and Mt. McGregor	1882	South Ferry and Prospect Park	1874
Saratoga, Mt. McGregor and Lake George	1882	South Ferry Railroad Company	1889
Saratoga and Schenectady	1831	South Ferry and Sea Side Direct Transit	1881
Saratoga, Schuylerville and Hoosac Tunnel	1870	South Park	1889
Saratoga Springs and Schuylerville	1832	Southern Boulevard	1885
Saratoga and St. Lawrence	1885	Southern Central	1866
Saratoga and Washington	1834	Southern Hempstead Branch	1875
Saratoga and Whitehall	1855	Southern of Long Island	1874
Sauquoit Valley Electric Street	1890	Southern Westchester	1871
		Southfield Branch	1868
		South Side Connection	1868



Name of Road.	When formed.
South Side of Long Island .....	1861
Speers' Quick Transit .....	1879
Springville and Sardinia .....	1878
Spuytzen Duyvil and Port Morris .....	1867
Squaw Island .....	1884
State Line and Eastern .....	1879
State Line and Stony Point .....	1886
Staten Island .....	1836
Staten Island .....	1852
Staten Island .....	1873
Staten Island Belt Line .....	1887
Staten Island Central .....	1871
Staten Island Horse .....	1866
Staten Island Northern .....	1886
Staten Island North and South Shore .....	1881
Staten Island Rapid Transit .....	1880
Staten Island Sea Beach .....	1889
Staten Island Shore .....	1864
Staten Island Shore .....	1869
Staten Island Terminal .....	1883
Steinway Avenue and Bowery Bay .....	1883
Steinway and Hunter's Point .....	1874
Steinway and Hunter's Point .....	1883
Sterling Mountain .....	1864
Stillwater and Mechanicville .....	1882
Stony Clove and Catskill Mountain .....	1881
Suburban Rapid Transit .....	1876
Suspension Bridge and Erie Junction .....	1868
Syracuse .....	1886
Syracuse and Baldwinsville .....	1886
Syracuse and Binghamton .....	1857
Syracuse, Binghamton and New York .....	1857
Syracuse, Binghamton and New York .....	1885
Syracuse Branch New York, Utica and Ogdensburg .....	1871
Syracuse and Chenango .....	1873
Syracuse and Chenango Valley .....	1868
Syracuse, Chenango and New York .....	1877
Syracuse Connecting Railway .....	1866
Syracuse Consolidated Street .....	1890
Syracuse, Cortland and Binghamton .....	1836
Syracuse, Eastwood Heights and DeWitt .....	1889
Syracuse Electric .....	1890
Syracuse, Fayetteville and Manlius .....	1867
Syracuse and Geddes .....	1863
Syracuse, Geneva and Corning .....	1876
Syracuse, Geneva and Corning .....	1885
Syracuse Junction .....	1873
Syracuse Mineral Springs .....	1867
Syracuse Northern .....	1868
Syracuse and Northern .....	1876
Syracuse and North-western .....	1869
Syracuse and North-western .....	1874
Syracuse and Onondaga .....	1836
Syracuse and Onondaga .....	1863
Syracuse and Ontario .....	1882
Syracuse, Ontario and New York .....	1883
Syracuse, Phoenix and Ontario .....	1883
Syracuse, Phoenix and Oswego .....	1872
Syracuse, Phoenix and Oswego .....	1885
Syracuse, Phoenix and Oswego .....	1886
Syracuse and Rochester Direct .....	1850
Syracuse and South Bay .....	1886
Syracuse and Southern .....	1856
Syracuse and South-western .....	1876
Syracuse and South-western .....	1877
Syracuse Stone .....	1836
Syracuse and Utica .....	1836
Syracuse, Union Street .....	1888
Syracuse Utica Direct .....	1853
Tenth Avenue and Grand Street .....	1860
Terminal Underground .....	1886
Terminal Union .....	1889
Third Avenue .....	1853
Third Avenue and Fordham .....	1861
Third Street (Newburgh) .....	1887
Third Ward Railway .....	1886
Thirty-eighth and Thirty-ninth Streets Crosstown .....	1884
Thirty-first Street .....	1885

Name of Road.	When formed.
Thirty-fourth Street .....	1884
Thirty-fourth St. Ferry and Eleventh Avenue .....	1886
Thirty-second Street .....	1889
Tilly Foster Mine .....	1889
Ticonderoga .....	1869
Tioga and Erie .....	1886
Tioga and Savonia .....	1875
Tonawanda .....	1822
Tonawanda, Genesee Valley and Pine Creek .....	1880
Tonawanda Electric .....	1884
Tonawanda Street .....	1894
Tonawanda Valley .....	1869
Tonawanda Valley and Cuba .....	1888
Tonawanda Valley and Cuba .....	1881
Tonawanda Valley Extension .....	1881
Tonawanda, Wiscoy and Genesee Valley .....	1882
Transit .....	1872
Trenton and Sackett's Harbor .....	1857
Troy and Albion .....	1864
Troy and Averill Park .....	1886
Troy and Bennington .....	1881
Troy and Boston .....	1860
Troy and Chatham .....	1882
Troy City .....	1880
Troy and Cohoes .....	1860
Troy and Greenbush .....	1866
Troy and Lansingburgh .....	1886
Troy and Lansingburgh .....	1889
Troy and New England .....	1889
Troy and Rutland .....	1860
Troy and Saratoga .....	1877
Troy, Saratoga and Northern .....	1886
Troy and Stockbridge .....	1886
Troy and Susquehanna .....	1871
Troy Turnpike and Railroad .....	1882
Troy Union .....	1881
Troy and Utica .....	1853
Tunnel Extension .....	1882
Twenty-eighth and Thirtieth Street .....	1884
Twenty-eighth and Twenty-ninth Streets Crosstown .....	1886
Twenty-third Street .....	1869
Twenty-third Street .....	1872
Twenty-third Street District Railway .....	1886
Tyrone and Geneva .....	1887
Ulster County .....	1886
Ulster and Delaware .....	1873
Unadilla and Schoharie .....	1884
Unadilla Valley .....	1889
Union .....	1861
Union (Buffalo) .....	1869
Union Elevated .....	1884
Union Passenger Railway and Transportation Company of New York .....	1886
Union Pneumatic Railway .....	1887
Union Railroad Company .....	1887
Union Street .....	1890
Union of the City of Brooklyn .....	1884
Union (Syracuse) .....	1883
Union and Syracuse Straight Line .....	1883
Union Terminal of the City of Buffalo .....	1884
Union Village and Johnsonville .....	1887
Union (of Westchester) .....	1889
United States and Canada .....	1885
United States and Canada .....	1886
United States Harvey-Way Construction Company .....	1883
Upper Hudson .....	1872
Up-Town Fifth Avenue .....	1886
Utica Adirondack and Saratoga .....	1889
Utica Belt Line .....	1889
Utica and Binghamton .....	1863
Utica and Black River .....	1861
Utica and Black River .....	1886
Utica and Black River .....	1886
Utica, Chenango and Cortland .....	1879
Utica, Chenango and Susquehanna Valley .....	1886

Name of Road.	When formed.	Name of Road.	When formed.
Utica City.....	1862	Wellsville, Coudersport and Pine Creek.....	1882
Utica, Clinton and Binghamton.....	1868	Wellsville and Fillmore.....	1882
Utica and Deerfield Street.....	1871	Wellsville, Honeoye and Ceres.....	1882
Utica and Fair-ground.....	1875	West Brooklyn.....	1887
Utica, Georgetown and Elmira.....	1870	Westchester.....	1863
Utica, Horseheads and Elmira.....	1870	Westchester County.....	1856
Utica and Ilion Narrow Gauge.....	1877	Westchester County.....	1878
Utica, Ithaca and Elmira.....	1872	Westchester County.....	1884
Utica, Ithaca and Elmira Railway Co.....	1878	Westchester County and New York City.....	1860
Utica and Mohawk.....	1874	Westchester Railway.....	1881
Utica and Mohawk (Street).....	1869	West End and Glenwood.....	1876
Utica and Schenectady.....	1833	Western New York and Pennsylvania.....	1887
Utica and Susquehanna.....	1832	Westfield and Chautauqua.....	1886
Utica and Syracuse Air Line.....	1890	Westport and Kingdom.....	1868
Utica and Syracuse Railway.....	1865	West Shore.....	1863
Utica and Unadilla Valley.....	1888	West Shore.....	1865
Utica and Waterville.....	1854	West Shore Hudson River.....	1868
Valatie and Kinderhook Street.....	1867	West Shore and International Bridge.....	1892
Valley.....	1869	West Side.....	1857
Van Brunt Street and Erie Basin.....	1861	West Side.....	1887
Wall Street Ferry.....	1888	West Side Elevated Patent Railway.....	1868
Wallkill Valley.....	1877	West Side of Rochester.....	1887
Wallkill Valley Railway.....	1866	West Side and Yonkers Patent.....	1866
Warren County.....	1832	West Troy and Green Island.....	1870
Warren, Sugar Grove and Mayville.....	1885	Williamsport and Binghamton.....	1887
Warsaw and Le Roy.....	1854	Wilson Terminal.....	1889
Warwick.....	1837	Wharton Valley.....	1888
Warwick Valley.....	1860	Whitehall and Plattsburgh.....	1853
Washington Bridge, Tremont and Westchester.....	1890	Whitehall and Plattsburgh.....	1866
Washington County.....	1867	Whitehall and Rutland.....	1838
Washington County Central.....	1856	Whitestone and Westchester.....	1872
Washington Street Asylum and Park.....	1887	Williamsburgh and Coney Island.....	1864
Washington Street and State Asylum.....	1872	Williamsburgh and Flatbush.....	1866
Water and Clinton Street.....	1873	Williamsburgh and Newtown.....	1866
Waterford and Coboes.....	1863	Williamsport and Elmira.....	1850
Waterford and Coboes.....	1883	Williamstown and Redfield.....	1865
Watertown and Cape Vincent.....	1836	Windsor Beach and Ontario.....	1887
Watertown and Rome.....	1832	Woodlawn and Butternut.....	1886
Watertown Street Railway.....	1887	Yates Avenue and Flatbush.....	1890
Watervliet and Schenectady.....	1836	Yonkers.....	1872
Watervliet Turnpike and Railroad.....	1862	Yonkers.....	1886
Watkins and Havana Street.....	1872	Yonkers and New York.....	1864
Waverly and State Line.....	1867	Yonkers Rapid Transit.....	1879
Wellsville, Bolivar and Eldred.....	1881	Yonkers Street.....	1886
		Youngstown and Buffalo.....	1868



# RAILROAD LAWS.

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**"CONDEMNATION LAW" (BEING CHAPTER 95, LAWS OF 1890)—  
THE GENERAL ACT OF 1850, AS AMENDED BY SUBSE-  
QUENT ACTS—REVISED STATUTES REFERRED TO IN  
SECTION 1, CHAPTER 140, LAWS OF 1850—STATUTES  
RELATING GENERALLY TO RAILROADS AND RAILROAD  
CORPORATIONS—SECTIONS OF THE CRIMINAL AND  
PENAL CODES APPLYING TO RAILROAD CORPORA-  
TIONS.**

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COMPILED BY THE BOARD OF RAILROAD COMMISSIONERS.

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## NOTICE.

Under and in conformity to the provisions of chapter 289 of the Laws of 1889, the "Commissioners of Statutory Revision," duly appointed by the Governor, reported various bills to the Legislature of 1890 for its adoption, and among the acts so reported and passed by the Legislature of 1890, are the following:

CHAP. 95, entitled "An act to amend the Code of Civil Procedure" (one section of which was later on amended by chapter 247) and known as the "*Condemnation Law*."

CHAP. 563, entitled "An act relative to corporations, constituting chapter 35 of the general laws," known as the "*General Corporation Law*."

CHAP. 564, entitled "An act in relation to stock corporations, constituting chapter 38 of the general laws," known as the "*Stock Corporation Law*."

CHAP. 565, entitled "An act in relation to railroads, constituting chapter 39 of the general laws," known as the "*Railroad Law*."

With the exception of chapter 95, none of the above-mentioned acts are to take effect until May 1, 1891. Said chapter 95, as amended by chapter 247, went into effect on the 1st day of May, 1890, and the Board publishes the same in this year's compilation of railroad laws and has endeavored to strike out such acts or parts of acts formerly applying to the condemnation of real property as are repealed or superseded by said chapter 95.

It is assumed that at the coming session of the Legislature, and prior to the time the other three chapters are to go into effect, various changes will be made in the several acts and it is not deemed advisable to publish such chapters in their present form. Any person, however, desiring to examine

the provisions of either or all of said acts, can readily do so by consulting the Session Laws for 1890, which will be published and in circulation before this Report goes to press.

When the above-named three chapters do go into effect, there will be a complete and radical change in the present arrangement of the laws governing railroad companies, and some changes will occur as well in the matter as in the arrangement of such laws.

The Board contemplates publishing a complete compilation of such laws in its report for the year ending June 30, 1891, by which time, it is presumed, said acts will have been practically perfected and will have gone into operation. This year's Report contains, as above stated, the railroad laws as heretofore compiled by the Board with such amendments and additions thereto as were made at the last session of the Legislature and are now operative.

# CHAPTER TWENTY-THREE OF THE CODE OF CIVIL PROCEDURE.

## CHAP. 95, LAWS OF 1890.

### AN ACT to amend the Code of Civil Procedure.

#### SUPPLEMENTAL PROVISIONS.

#### TITLE I.

##### PROCEEDINGS FOR THE CONDEMNATION OF REAL PROPERTY.

##### Condemnation law.

SECTION 3357. This title shall be known as the condemnation law.

##### Terms used defined.

§ 3358. The term "person," when used herein, includes a corporation, joint stock association, the state and a political division thereof, as well as a natural person; the term "real property," any right, interest or easement therein or appurtenance thereto; and the term "owner," all persons having any estate, interest, or easement in the property to be taken, or any lien, charge, or incumbrance thereon. The person instituting the proceedings shall be termed the plaintiff; and the person against whom the proceeding is brought, the defendant.

##### Title to real estate, how acquired.

§ 3359. Whenever any person is authorized to acquire title to real property, for a public use by condemnation the proceeding for that purpose shall be taken in the manner prescribed in this title.

##### Petition to supreme court; petition, what to contain.

§ 3360. The proceeding shall be instituted by the presentation of a petition by the plaintiff to the supreme court setting forth the following facts:

1. His name, place of residence, and the business in which engaged; if a corporation or joint stock association, whether foreign or domestic, its principal place of business within the state, the names and places of residence of its principal officers, and of its directors, trustees or board of managers, as the case may be, and the object or purpose of its incorporation or associations\*; if a political division of the state, the names and places of residence of its principal officers; and if the state, the name and place of residence of the officer acting in its behalf in the proceeding.

2. A specific description of the property to be condemned and its location, by metes and bounds, with reasonable certainty.

3. The public use for which the property is required and a concise statement of the facts showing the necessity of its acquisition for such use.

4. The names and places of residence of the owners of the property; if an infant, the name and place of residence of his general guardian, if he has one, if not, the name and place of residence of the person with whom he resides; if a lunatic, idiot, or habitual drunkard, the name and place of residence of his committee or trustee, if he has one; if not, the name and place of residence of the person with whom he resides. If a non-resident, having an agent or attorney residing in the state authorized to contract for the sale of the property, the name and place of residence of such agent or attorney; if the name or place of residence of any owner can not after diligent inquiry be ascertained, it may be so stated with a specific statement of the extent of the inquiry which has been made.

5. That the plaintiff has been unable to agree with the owner of the property for its purchase and the reason of such inability.

6. The value of the property to be condemned.

7. A statement that it is the intention of the plaintiff, in good faith, to complete the work or improvement, for which the property is to be condemned; and that all the preliminary steps required by law have been taken to entitle him to institute the proceeding.

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\*So in the original.

8. A demand for relief, that it may be adjudged that the public requires the condemnation of the real property described, and that the plaintiff is entitled to take and hold such property for the public use specified, upon making compensation therefor, and that commissioners of appraisal be appointed to ascertain the compensation to be made to the owners for the property so taken.

**Notice of presentation of petition; service of petition and notice.**

§ 3361. There must be annexed to the petition a notice of the time and place at which it will be presented to a special term of the supreme court, held in the judicial district where the property or some portion of it is situated, and a copy of the petition and notice must be served upon all the owners of the property at least eight days prior to its presentation.

**Service, how made.**

§ 3362. Service of the petition and notice must be made in the same manner as the service of a summons in an action in the supreme court is required to be made, and all the provisions of articles one and two of this one of chapter five of this act, which relate to the service of a summons, either personally or in any other way, and the mode of proving service, shall apply to the service of the petition and notice. If the defendant be an agent or attorney residing in this state, authorized to contract for the sale of the real property described in the petition, service upon such agent or attorney will be sufficient service upon such defendant. In case the defendant is an infant of the age of fourteen years or upwards, a copy of the petition and notice shall also be served upon his general guardian, if he has one, if not, upon the person with whom he resides.

**Duty of general guardian, committee or trustee; court when to appoint guardian ad litem; when attorney for defendant.**

§ 3363. If a defendant is an infant, idiot, lunatic or habitual drunkard, it shall be the duty of his general guardian, committee or trustee, if he has one, to appear for him upon the presentation of the petition and attend to his interests, and in case he has none, or in case his general guardian, committee or trustee fails to appear for him, the court shall, upon the presentation of the petition and notice, with proof of service, without further notice, appoint a guardian ad litem for such defendant, whose duty it shall be to appear for him and attend to his interests in the proceeding, and, if deemed necessary to protect his rights, the court may require a general guardian, committee or trustee, or a guardian ad litem to give security in such sum and with such sureties as the court may approve. If a service other than personal has been made upon any defendant, and he does not appear upon the presentation of the petition, the court shall appoint some competent attorney to appear for him and attend to his interests in the proceeding.

**Appearance of parties; service of papers.**

§ 3364. The provisions of law and of the rules and practice of the court relating to the appearance of parties in person or by attorney in actions in the supreme court, shall apply to the proceeding from and after the service of the petition, and all subsequent orders, notices and papers may be served upon the attorney appearing and upon a guardian ad litem in the same manner and with the same effect as the service of papers in an action in the supreme court may be made.

**Answer to petition.**

§ 3365. Upon presentation of the petition and notice with proof of service thereof, an owner of the property may appear and interpose an answer, which must contain a general or specific denial of each material allegation of the petition controverted by him, or of any knowledge or information thereof sufficient to form a belief, or a statement of new matter constituting a defense to the proceeding.

**Verification of petition and answer.**

§ 3366. A petition or answer must be verified, and the provisions of the act relating to the form and contents of the verification of pleadings

courts of record, and the persons by whom it may be made, shall apply to the verification.

**Trial of issue and decision thereon.**

§ 3367. The court shall try any issue raised by the petition and answer at such time and place as it may direct, or it may order the same to be referred to a referee to hear and determine, and upon such trial the court or referee shall file a decision in writing, or deliver the same to the attorney for the prevailing party, within twenty days after the final submission of the proofs and allegations of the parties, and the provisions of this act relating to the form and contents of decisions upon the trial of issues of fact by the court or a referee, and to making and filing exceptions thereto, and the making and settlement of a case for the review thereof upon appeal, and to the proceedings which may be had, in case such decision is not filed or delivered within the time herein required, and to the powers of the court and referee upon such trial, shall be applicable to a trial and decision under this title.

**Provisions applicable.**

§ 3368. The provisions of title one of chapter eight of this act shall also apply to proceedings had under this title.

**Judgment, entry of; in favor of plaintiff; commissioners of appraisal, appointment of.**

§ 3369. Judgment shall be entered pursuant to the direction of the court or referee in the decision filed. If in favor of the defendant, the petition shall be dismissed with costs, to be taxed by the clerk at the same rates as are allowed of course to a defendant prevailing in an action in the supreme court, including the allowances for proceedings before and after notice of trial. If the decision is in favor of the plaintiff, or if no answer has been interposed and it appears from the petition that he is entitled to the relief demanded, judgment shall be entered, adjudging that the condemnation of the real property described is necessary for the public use, and that the plaintiff is entitled to take and hold the property for the public use specified, upon making compensation therefor, and the court shall thereupon, appoint three disinterested and competent freeholders, residents of the county where the real property or some part of it is situated, or of some adjoining county, commissioners to ascertain the compensation to be made to the owners for the property to be taken for the public use specified, and fix the time and place for the first meeting of the commissioners. If a trial has been had, at least eight days notice of such appointment must be given to all defendants who have appeared.

**Duty of commissioners; report; compensation.**

§ 3370. The commissioners shall take and subscribe the constitutional oath of office. Any of them may issue subpoenas and administer oaths to witnesses; a majority of them may adjourn the proceedings before them, from time to time, in their discretion. Whenever they meet, except by appointment of the court or pursuant to adjournment, they shall cause at least eight days notice of such meeting to be given to the defendants who have appeared, or their agents or attorneys. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing, and after the testimony in each case is closed, they, or a majority of them, all being present, shall, without necessary delay ascertain and determine the compensation which ought justly to be made by the plaintiff to the owners of the property appraised by them; and, in fixing the amount of such compensation, they shall not make any allowance or deduction on account of any real or supposed benefits which the owners may derive from the public use, for which the property is to be taken, or the construction of any proposed improvement connected with such public use. But in case the plaintiff is a railroad corporation and such real property shall belong to any other railroad corporation, the commissioners on fixing the amount of such compensation, shall fix the same at its fair value for railroad purposes. They shall make a report of their proceedings to the supreme court with the minutes of the testimony taken by them, if any;



and they shall each be entitled to six dollars for services, for every day they are actually engaged in the performance of their duties, and their necessary expenses, to be paid by the plaintiff.

**Confirmation of report; rehearing before commissioners; final order deposit of money deemed payment.**

§ 3371. Upon filing the report of the commissioners, any party may move for its confirmation at a special term, held in the district where the property or some part of it is situated, upon notice to the other parties who have appeared, and upon such motion, the court may confirm the report or may set it aside for irregularity, or for error of law in the proceedings before the commissioners, or upon the ground that the award is excessive or insufficient. If the report is set aside, the court may direct a rehearing before the same commissioners, or may appoint new commissioners for that purpose, and the proceedings upon such rehearing shall be conducted in the manner prescribed for the original hearing, and the same proceedings shall be had for the confirmation of the second report, as are here prescribed for the confirmation of the first report. If the report is confirmed, the court shall enter a final order in the proceeding, directing that compensation shall be made to the owners of the property, pursuant to the determination of the commissioners, and that upon payment of such compensation, the plaintiff shall be entitled to enter into the possession of the property condemned, and take and hold it for the public use specified in the judgment. Deposit of the money to the credit of, or payable to the order of the owner, pursuant to the direction of the court, shall be deemed a payment within the provisions of this title.

**Offer to purchase by plaintiff; notice of acceptance of offer; costs and allowances.**

§ 3372. In all cases where the owner is a resident and not under legal disability to convey title to real property the plaintiff before service of his petition and notice, may make a written offer to purchase the property at a specified price, which must within ten days thereafter be filed in the office of the clerk of the county where the property is situated; and which can not be given in evidence before the commissioners, or considered by them. The owner may at the time of the presentation of the petition, or at any time previously, serve notice in writing of the acceptance of plaintiff's offer, and thereupon the plaintiff may, upon filing the petition, with proof of the making of the offer and its acceptance, enter an order that upon payment of the compensation agreed upon, he may enter into possession of the real property described in the petition, and take and hold it for the public use therein specified. If the offer is not accepted, and the compensation awarded by the commissioners does not exceed the amount of the offer with interest from the time it was made, no costs shall be allowed to either party. If the compensation awarded shall exceed the amount of the offer with interest from the time it was made, or if no offer was made, the court shall, in the final order, direct that the defendant recover of the plaintiff the costs of the proceeding, to be taxed by the clerk at the same rate as is allowed, of course, to the defendant when he is the prevailing party in an action in the supreme court, including the allowances for proceedings before and after notice of trial and the court may also grant an additional allowance of costs, not exceeding five per centum upon the amount awarded. The court shall also direct in the final order what sum shall be paid to the general or special guardian, or committee or trustee of an infant, idiot, lunatic or habitual drunkard, or to an attorney appointed by the court to attend to the interests of any defendant upon whom other than personal service of the petition and notice may have been made, and who has not appeared, for costs, expenses and counsel fees, and by whom or out of what fund the same shall be paid. If a trial has been had, and all the issues determined in favor of the plaintiff, costs of the trial shall not be allowed to the defendant, but the plaintiff shall recover of the defendant answering the costs of such trial caused by the interposition of the unsuccessful defense, to be taxed by the clerk at the same rate as is allowed to the prevailing party for the trial of an action in the supreme court.

Compensation awarded, etc., to be docketed as a judgment; delivery of possession; issue of writ of assistance.

§ 3373. Upon the entry of the final order, the same shall be attached to the judgment roll in the proceedings, and the amount directed to be paid, either as compensation to the owners, or for the costs or expenses of the proceedings, shall be docketed as a judgment against the person who is directed to pay the same, and it shall have all the force and effect of a money judgment in an action in the supreme court, and collection thereof may be enforced by execution and by the same proceedings as judgments for the recovery of money in the supreme court may be enforced under the provisions of this act. When payment of the compensation awarded, and costs of the proceeding, if any, has been made, as directed in the final order, and a certified copy of such order has been served upon the owner, he shall, upon demand of the plaintiff, deliver possession thereof to him, and in case possession is not delivered when demanded, the plaintiff may apply to the court without notice, unless the court shall require notice to be given, upon proof of such payment and of service of the copy order, and of the demand and non-compliance therewith, for a writ of assistance, and the court shall thereupon cause such writ to be issued, which shall be executed in the same manner as when issued in other cases for the delivery of possession of real property.

**Abandonment of proceedings by plaintiff.**

§ 3374. Within thirty days after the entry of the final order the plaintiff may abandon the proceeding, by filing and serving a written notice of his determination to do so, and paying the fees and expenses of the commissioners, and the costs and expenses directed to be paid in such order; and thereupon payment of the amount awarded for compensation shall not be enforced, but in such case the plaintiff shall not renew proceedings to acquire title to such lands or any part thereof without a tender or deposit in court of the amount of the award and interest thereon.

**Appeal from final order; stay of proceedings.**

§ 3375. Appeal may be taken to the general term of the supreme court from the final order, within the time provided for appeals from orders by title four of chapter twelve of this act; and all the provisions of such chapter relating to appeals to the general term from orders of the special term shall apply to such appeals. Such appeal will bring up for review all the proceedings subsequent to the judgment, but the judgment and proceedings antecedent thereto may be reviewed on such appeal, if the appellant states in his notice that the same will be brought up for review, and exceptions shall have been filed to the decision of the court or the referee, and a case or a case and exceptions shall have been made, settled and allowed, as required by the provisions of this act, for the review of the trial of actions in the supreme court without a jury. The proceedings of the plaintiff shall not be stayed upon such an appeal, except by order of the court, upon notice to him, and the appeal shall not affect his possession of the property taken, and the appeal of a defendant shall not be heard except on his stipulation not to disturb such possession.

**Appeal from judgment in favor of defendant.**

§ 3376. If a trial has been had and judgment entered in favor of the defendant, the plaintiff may appeal therefrom to the general term within the time provided for appeals from judgments by title four of chapter twelve of this act, and all the provisions of such chapter relating to appeals from judgments shall apply to such appeals; and on the hearing of the appeal the general term may affirm, reverse or modify the judgment, and in case of reversal may grant a new trial, or direct that judgment be entered in favor of the plaintiff. If the judgment is affirmed, costs shall be allowed to the respondent, but if reversed or modified, no costs of the appeal shall be allowed to either party.

**New appraisal.**

§ 3377. On the hearing of the appeal from the final order the court may direct a new appraisal before the same or new commissioners, in its discretion, and the report of such commissioners shall be final and conclusive

upon all parties interested. If the amount of the compensation to be paid is increased by the last report, the difference shall be a lien upon the land appraised, and shall be paid to the parties entitled to the same, or shall be deposited as the court shall direct; and if the amount is diminished, the difference shall be refunded to the plaintiff by the party to whom the same may have been paid, and judgment therefor may be rendered by the court, on the filing of the last report, against the parties liable to pay the same.

**Adverse and conflicting claimants to money.**

§ 3378. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the property taken, the court may direct the money to be paid into the court by the plaintiff, and may determine who is entitled to the same, and direct to whom the same shall be paid, and may, in its discretion, order a reference to ascertain the facts on which such determination and direction are to be made.

**Power of court to prevent disturbance of possession.**

§ 3379. At any stage of the proceeding the court may authorize the plaintiff, if in possession of the property sought to be condemned, to continue in possession, and may stay all actions or proceedings against him or account thereof, upon giving security, or depositing such sum of money as the court may direct to be held as security for the payment of the compensation which may be finally awarded to the owner therefor and the costs of the proceeding, and in every such case the owner may conduct the proceeding to a conclusion, if the plaintiff delays or neglects to prosecute the same.

**Entry upon the use of property after answer has been interposed.**

§ 3380. When an answer to the petition has been interposed, and it appears to the satisfaction of the court that the public interests will be prejudiced by delay, it may direct that the plaintiff be permitted to enter immediately upon the real property to be taken, and devote it temporarily to the public use specified in the petition, upon depositing with the court the sum stated in the answer as the value of the property, and which sum shall be applied, so far as it may be necessary for that purpose, to the payment of the award that may be made, and the costs and expenses of the proceeding, and the residue, if any, returned to the plaintiff, and, in case the petition should be dismissed, or no award should be made, or the proceedings should be abandoned by the plaintiff, the court shall direct that the money so deposited, so far as it may be necessary, shall be applied to the payment of any damages which the defendant may have sustained by such entry upon and use of his property, and his costs and expenses of the proceeding, such damages to be ascertained by the court, or a referee to be appointed for that purpose, and if the sum so deposited shall be insufficient to pay such damages, and all costs and expenses awarded to the defendant, judgment shall be entered against the plaintiff for the deficiency, to be enforced and collected in the same manner as a judgment in the supreme court; and the possession of the property shall be restored to the defendant.

**Notice of pendency of proceedings; effect thereof; duty of county clerk.**

§ 3381. Upon service of the petition, or at any time afterwards before the entry of the final order, the plaintiff may file in the clerk's office of each county where any part of the property is situated, a notice of the pendency of the proceeding stating the names of the parties and the object of the proceeding, and containing a brief description of the property affected thereby, and from the time of filing, such notice shall be constructive notice to a purchaser, or incumbrancer of the property affected thereby, from or against a defendant with respect to whom the notice is directed to be indexed, as herein prescribed, and a person whose conveyance or incumbrance is subsequently executed or subsequently recorded, is bound by all proceedings taken in the proceeding, after the filing of the notice to the same extent as if he was a party thereto. The county clerk must immediately record such notice when filed in the book in his office kept for the purpose of recording notices of pendency of actions, and in- x R

to the name of each defendant specified in the direction appended at the foot of the notice, and subscribed by the plaintiff or his attorney.

**Power of court to make all necessary orders, etc.**

§ 3382. In all proceedings under this title, where the mode or manner of conducting all or any of the proceedings therein is not expressly provided for by law, the court before whom such proceedings may be pending, shall have the power to make all necessary orders and give necessary directions to carry into effect the object and intent of this title, and of the several acts conferring authority to condemn lands for public use, and the practice in such cases shall conform, as near as may be, to the ordinary practice in such court.

**Repeal.**

§ 3383. So much of all acts and parts of acts as prescribe a method of procedure in proceedings for the condemnation of real property for a public use is repealed, except such acts and parts of acts as prescribe a method of procedure for the condemnation of real property for public use as a highway, or as a street, avenue, or public place in an incorporate city or village, or as may prescribe methods of procedure for such condemnation for any public use for, by, on behalf, on the part, or in the name of the corporation of the city of New York, known as the mayor, aldermen, and commonalty of the city of New York, or by whatever name known, or by or on the application of any board, department, commissioners or other officers acting for or on behalf or in the name of such corporation or city, or where the title to the real property so to be acquired vests in such corporation or in such city; and all proceedings for the condemnation of real property embraced within the exceptions enumerated in this section are exempted from the operation of this title. (Thus amended by chap. 247, Laws of 1890.)

**Title, when to take effect.**

§ 3384. This title shall take effect on the first day of May, one thousand eight hundred and ninety, and shall not affect any proceeding previously commenced.

**TITLE II.**

**PROCEEDINGS FOR THE SALE OF CORPORATE REAL PROPERTY.**

**Proceedings on application to sell, mortgage, etc., property.**

SECTION 3390. Whenever any corporation or joint stock association is required by law to make application to the court for leave to mortgage, lease or sell its real estate, the proceeding therefor shall be had pursuant to the provisions of this title.

**Petition to court; petition, what to contain; verification.**

§ 3391. The proceedings shall be instituted by the presentation to the supreme court of the district or the county court of the county where the real property, or some part of it, is situated, by the corporation or association, applicant, of a petition setting forth the following facts:

1. The name of the corporation or association, and of its directors, trustees or managers, and of its principal officers, and their places of residence.
2. The business of the corporation or association, or the object or purpose of its incorporation or formation, and a reference to the statute under which it was incorporated or formed.
3. A description of the real property to be sold, mortgaged or leased, by metes and bounds, with reasonable certainty.
4. That the interests of the corporation or association will be promoted by the sale, mortgage or lease, of the real property specified, and a concise statement of the reasons therefor.
5. That such sale, mortgage or lease has been authorized, by a vote of at least two-thirds of the directors, trustees or managers of the corporation or association, at a meeting thereof, duly called and held, and a copy of the resolution granting such authority.

6. The market value of the remaining real property of the corporation or association, and the cash value of its personal assets, and the total amount of its debts and liabilities, and how secured, if at all.

7. The application proposed to be made of the moneys realized from such sale, mortgage or lease.

8. Where the consent of the shareholders, stockholders or members of the corporation or association, is required by law to be first obtained, a statement that such consent has been given, and a copy of the consent or a certified transcript of the record of the meeting at which it was given, shall be annexed to the petition.

9. A demand for leave to mortgage, lease or sell the real estate described. The petition shall be verified in the same manner as a verified pleading in an action in a court of record.

#### **Hearing of application.**

§ 3392. Upon presentation of the petition, the court may immediately proceed to hear the application, or it may, in its discretion, direct that notice of the application shall be given to any person interested therein, as a member, stockholder, officer or creditor of the corporation or association, or otherwise, in which case the application shall be heard at the time and place specified in such notice, and the court may in any case appoint a referee to take the proofs and report the same to the court, with his opinion thereon.

#### **Court may grant application; appearance on hearing.**

§ 3393. Upon the hearing of the application, if it shall appear, to the satisfaction of the court, that the interests of the corporation or association will be promoted thereby, an order may be granted authorizing it to sell, mortgage or lease the real property described in the petition, or any part thereof, for such sum, and upon such terms as the court may prescribe, and directing what disposition shall be made of the proceeds of such sale, mortgage or lease.

Any person, whose interests may be affected by the proceeding, may appear upon the hearing and show cause why the application should not be granted.

#### **Notice to creditors on application of insolvent corporation, etc.**

§ 3394. If the corporation or association is insolvent, or its property and assets are insufficient to fully liquidate its debts and liabilities, the application shall not be granted, unless all the creditors of the corporation have been served with a notice of the time and place at which the application will be heard.

#### **Service of notices.**

§ 3395. Service of notices, provided for in this title, may be made either personally or, in case of absence, by leaving the same at the place of residence of the person to be served, with some person of mature age and discretion, at least eight days before the hearing of the application, or by mailing the same, duly enveloped and addressed and postage paid, at least sixteen days before such hearing.

#### **Power of court to make all necessary orders.**

§ 3396. In all applications made under this title, where the mode or manner of conducting any or all of the proceedings thereon are not expressly provided for, the court before whom such application may be pending, shall have the power to make all the necessary orders and give the proper directions to carry into effect the object and intent of this title, or of any act authorizing the sale of corporate real property, and the practice in such cases shall conform, as near as may be, to the ordinary practice in such court.

#### **Title, when to take effect.**

§ 3397. This title shall take effect May first, one thousand eight hundred and ninety, and shall not affect any proceeding previously commenced.

# GENERAL RAILROAD ACT.

## CHAP. 140, LAWS OF 1850.

AN ACT to authorize the formation of railroad companies and to regulate the same.

- Section 1. Manner of organization; articles to be filed in office of Secretary of State.
- Section 2. Conditions of filing.
- Section 3. Evidence of incorporation.
- Section 4. Manner of subscribing for additional stock.
- Section 5. Directors and their election; vacancies; inspectors of election; qualifications for director; purchasers of property of railroad corporation may, with others, become a corporation and associate with any number of persons and make and file articles; not to authorize increase of fare.
- Section 6. Officers, how appointed.
- Section 7. Subscriptions, how paid and how forfeited.
- Section 8. Stock declared personal estate; company prohibited from purchasing the same.
- Section 9. Capital stock; how it may be increased; notice to be published; penalties for violation.
- Section 10. Liabilities of stockholders.
- Section 11. Representative stock.
- Section 12. Payment of laborers' wages; liability of railroad company; notice to be given railroad company, and what to state; how verified and served; when actions to be commenced.
- Section 13. How title to real estate is acquired.
- Section 14 to section 20, inclusive, repealed.
- Section 21. Proceedings when title is defective; additional land, how acquired; water rights; right of way; acquiring by purchase; condemnation; limitation; proviso in case of mortgagee or receiver.
- Section 22. Map of route of railroad to be filed before construction; notice to occupants of lands; objections to route, how made; the application to Supreme Court to be accompanied with map of proposed alterations; court to appoint commissioners to examine, who may affirm or alter route; engineer, on commission, must concur; determination, map and testimony to be filed; appeals; a court may affirm route or adopt alteration; the pay of commissioners.
- Section 23. Directors may change route; survey; may acquire land; alteration in city or village; compensation; prohibits alteration when certain bonds have been issued.
- Section 24. Crossings and intersections; how additional lands for, taken.
- Section 25. State lands, how acquired by company.
- Section 26. Title, how acquired; when trustees, guardian or committee are not authorized to sell.
- Section 27. Weight of iron rails on grades, etc.; how to apply act.
- Section 28. Additional powers conferred:
1. May enter upon lands for purpose of survey.
  2. May hold voluntary grants of real estate.
  3. May purchase, hold and use real estate; reference to Indian lands.
  4. Construction of road.

5. May construct road across any stream, canal and highway; bridges or obstruction prohibited; streets in cities not to be used without consent of corporation, nor along highways, without order of Supreme Court.
6. Right to cross, intersect, etc., other railroads; proceeding in case two railroads can not agree; companies shall receive from each other and forward freight.
7. Conveyance of passengers and property.
8. Buildings and stations.
9. Time and manner of transportation, and rates of fare.
10. May borrow money necessary for completion or operation of road.

Section 29. Canal tolls, etc., repealed.

Section 30. Conductors and servants to wear badges.

Section 31. Annual report.

Section 32. Penalty for not making annual report.

Section 33. Legislature may alter or reduce rate of freight, fare, etc.

Section 34. Mails.

Section 35. Passengers refusing to pay fare.

Section 36. Notice of times of starting, etc.; preferences forbidden.

Section 37. Baggage arrangements; checks to be given; penalty for refusal.

Section 38. Repealed.

Section 39. Repealed.

Section 40. Sign-boards at road crossings; size of inscription; proviso.

Section 41. Repealed.

Section 42. Repealed.

Section 43. Penalties, how sued for.

Section 44. Fencing; penalty for driving animals on railroads; unlawful to walk upon track.

Section 45. Maps to be filed with State Engineer and Surveyor and in county clerk's offices; scale of maps. See, however, section 31 in connection herewith.

Section 46. Duty of passengers.

Section 47. Road, when to be commenced and finished.

Section 48. Legislative power to dissolve.

Section 49. What sections of this law applicable to existing corporations.

Section 50. General repeal.

Section 51. New York and Erie railroad.

**Manner of organization; articles to be filed in office of Secretary of State.**

**SECTION 1.** Any number of persons, not less than twenty-five, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any unincorporated railroad already constructed for the like public use; and for that purpose may make and sign articles of association, in which shall be stated the name of the company; the number of years the same is to continue; the places from and to which the road is to be constructed, or maintained and operated; the length of such road as near as may be, and the name of each county in this State through or into which it is made, or intended to be made; the amount of the capital stock of the company, which shall not be less than \$10,000 for every mile of road constructed, or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of thirteen directors of the company, who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company. On compliance with the provisions of the next section, such articles of association may be filed in the office of the Secretary of State, who shall indorse thereon the day they are filed, and record the same in a book to be provided by him for that purpose; and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title 3 of chapter 18 of the first part of the Revised Statutes, except the provisions contained in the seventh section of said title.

See title 3 of chap. 18 of the first part of the Revised Statutes referred to in above section, pages 350, 351 hereof.

Also amended certificates, § 1, chap. 529, Laws of 1872, page 362 hereof.

See chap. 135, Laws of 1870, at page 361 hereof.

Part of line in another State, chap. 19, Laws of 1861, page 363.

As to reorganization, see chap. 430, Laws of 1874, page 387 hereof.

Cable Roads, see chap. 697, Laws of 1866, page 375 hereof.

Elevated Roads, see chap. 606, Laws of 1875, page 391 hereof.

Narrow Gauge Roads, see §§ 5, 6, 7, chap. 560, Laws of 1871, pages 378, 379 hereof.

Street Roads, see chap. 252, Laws of 1884, page 409 hereof.

To operate roads in foreign countries, see chap. 468, Laws of 1881, page 428 hereof.

**Conditions of filing.**

§ 2. Such articles of association shall not be filed and recorded in the office of the Secretary of State, until at least \$1,000 of stock for every mile of railroad proposed to be made is subscribed thereto, and ten per cent paid thereon in good faith, and in cash, to the directors named in said articles of association; nor until there is indorsed thereon, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per cent paid in cash thereon as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association, as aforesaid.

Organization tax must be paid before the same can be filed. Chap. 143, Laws of 1886, page 467 hereof.

**Evidence of incorporation.**

§ 3. A copy of any articles of association filed and recorded in pursuance with this act, or of the record thereof, with a copy of the affidavit aforesaid indorsed thereon or annexed thereto, and certified



to be a copy by the Secretary of this State, or his deputy, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated.

**Manner of subscribing for additional stock.**

§ 4. When such articles of association and affidavit are filed and recorded in the office of the Secretary of State, the directors named in said articles of association may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company, in such places and after giving such notice as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber shall pay to the directors ten per cent on the amount subscribed by him, in money; and no subscription shall be received or taken without such payment.

**Directors and their election; their numbers; vacancies; inspectors of election; qualifications for director; purchasers of property of railroad corporation may, with others, become a corporation and associate with any number of persons and make and file articles; not to authorize increase of fare.**

§ 5. There shall be a board of thirteen directors of every corporation formed under this act to manage its affairs, and said directors shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors each stockholder shall be entitled to one vote personally or by proxy, on every share held by him thirty days previous to any such election; and vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. The inspectors of the first election of directors shall be appointed by the board of directors named in the articles of association. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right and qualified to vote for directors at the election at which he shall be chosen; and at every election of directors the books and papers of such company shall be exhibited to the meeting if a majority of the stockholders present shall require it. And whenever the purchaser or purchasers of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may be hereafter sold, by virtue of any mortgage executed by such corporation, or execution issued upon any judgment or decree of any court shall acquire title to the same in the manner prescribed by law, such purchaser or purchasers may associate with him and them any number of persons, and make and acknowledge and file articles of association as prescribed by this act. Such purchaser or purchasers and their associates shall thereupon be a corporation with all the powers, privileges and franchises, and be subject to all the provisions of said act. The purchaser or purchasers, or the grantee or grantees of any purchaser or purchasers of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may be hereafter sold, by virtue of any mortgage, or by virtue of any judgment, decree or order of any court having jurisdiction in the premises, may associate with him or them any number of persons and make and acknowledge and file articles of association as prescribed by the first section of this act: such articles shall be entitled to be filed when there is indorsed thereon an affidavit made by at least three of the directors named in said article, that it is intended in good faith to maintain and operate the road mentioned in such articles, and upon the filing thereof so indorsed, the parties making such articles of association and their associates, shall thereupon be a corporation with all the powers, privileges and franchises, and subject to all the provisions of this act. Nothing herein contained shall be construed to authorize any corporation

organized under this act to charge any greater rate of fare than they were authorized by law to charge previous to such reorganization. (*Thus amended, Laws of 1854, chap. 282, and Laws 1873, chap. 710.*)

See act to facilitate reorganization of railroads sold under mortgage, page 387 etc., *post*.

Stockholders' meeting. See chap. 510, Laws of 1880, page 442 hereof.

When railroad does not exceed twenty miles in length board of directors may consist of seven stockholders. See chap. 582, Laws of 1864, at page 381 hereof.

Directors may postpone election. See chap. 586, Laws 1875, at page 444 hereof, and chap. 317, Laws of 1881, at page 445 hereof.

Authorizing change in time and place of holding elections. See chap. 498, Laws of 1885, page 445.

#### Officers, how appointed.

§ 6. The directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws.

#### Subscriptions, how paid and how forfeited.

§ 7. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock, and all previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice; and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

#### Stock declared personal estate; company prohibited from purchasing the same.

§ 8. The stock of every company formed under this act shall be deemed personal estate and shall be transferable in the manner prescribed by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully paid in; and it shall not be lawful for such company to use any of its funds in the purchase of any stock in its own or in any other corporation.

See, however, chap. 361, Laws of 1883, page 432 hereof.

#### Capital stock; how it may be increased; notice to be published; penalties for violation.

§ 9. In case the capital stock of any company formed under this act, or organized and existing under the laws of this State, is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, and the written approval of the State Engineer and Surveyor, until such time as there shall be appointed a Board of Railroad Commissioners, after that with the written approval of such board, increase its capital stock, from time to time, to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly addressed and directed to him at the post-office nearest his usual place of residence, in the post-office at least twenty days prior to such meet-

ing. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid. A copy of such notice shall also be published within the county where the main office of such corporation shall be located, once a week for four weeks prior to such meeting, in a newspaper to be designated by the State Engineer and Surveyor, until such time as a Board of Railroad Commissioners shall be appointed, and after that time by such Board, and in no case, and under no circumstances, shall any railroad company of this State increase its stock except upon the notice and with the approval herein provided. Any officer or director of any railroad company violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than six months and by fine not exceeding \$1,000. (*Thus amended Laws of 1882, chap. 426.*)

Stock may be reduced. See chap. 264, Laws of 1878, at page 381 hereof.

Preferred stock may be exchanged for common. See chap. 225, Laws 1880, at page 382 hereof.

When stock insufficient for reorganization it may be increased. Chap. 156, Laws 1880, at page 368 hereof.

#### Liabilities of stockholders.

§ 10. Each stockholder of any company formed under this act shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole amount of the capital stock so held by him shall have been paid to the company, and all the stockholders of any such company shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services for thirty days' service performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such executions shall be the amount recoverable, with costs, against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' services he shall give him notice in writing within twenty days after the performance of such service that he intends so to hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold with himself; and all laws whereby the stockholders, officers and agents of any railroad corporation are made individually liable for the debts or liabilities of such corporation beyond the provisions contained in the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and the acts amending the same, are hereby repealed. (*Thus amended by Laws of 1854, chap. 282.*)

See § 8, chap. 392, Laws of 1875, at page 449 hereof.

#### Representative stock.

§ 11. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder.

holder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner, and to the same extent as the testator, or intestate, or the ward or person interested in such trust funds would have been if he had been living and competent to act, and held the same stock in his own name.

**Payment of laborer's wages; liability of railroad company; notice to be given railroad company and what to state; how verified and served; when actions to be commenced.**

§ 12. As often as any contractor for the construction of any part of a railroad, which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said company in the manner herein provided; and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor. Such notice shall be given by said laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing and shall state the month and particular days of the month upon which the labor was performed and remains unpaid for, the price per day, the amount due, with the name of the contractor from whom due, the section of the road performed, and shall be signed by such laborer or his attorney, to which notice an affidavit shall be annexed, made by such laborer or his attorney, to the effect that of his own knowledge the statements contained in such notice are in all respects true. Such notice, so verified, shall be served on an engineer, agent or superintendent employed by said company, having charge of the section of the road on which such labor was performed, personally or by leaving the same at the office or usual place of business of such engineer, agent or superintendent, with some person of suitable age. But no action shall be maintained against any company, under the provisions of this section, unless the same is commenced after ten and within thirty days after notice is given to the company by such laborer as above provided. (*Thus amended by Laws of 1871, chap. 669.*)

As to lien of employees for labor, see Laws of 1875, chap. 392, at pages 447, 448. Also, Laws 1886, chap. 376, page 436.  
To extend to bridges and trestles, see Laws of 1870, chap. 529, page 449 hereof.  
See also chap. 63, Laws of 1887, referred to on page 449 hereof.

**How title to real estate is acquired.**

§ 13. In case any company formed under this act is unable to agree for the purchase of any real estate required for the purposes of its incorporation, it shall have the right to acquire title to the same, in the manner and by the special proceedings prescribed in this act.

This section modified by the substitution of the provisions of chap. 95, Laws of 1890 for the provisions of this act.  
Special estates, how acquired, see chap. 444, Laws of 1857, § 2, at page 385 hereof.  
As to streets or avenues in cities or villages, see § 2, chap. 198, Laws of 1876, page 441 hereof.  
May purchase and hold real estate in other States, see § 2, chap. 586, Laws of 1875, at page 445 hereof.  
See chap. 282, Laws of 1854, page 372 hereof.

- § 14. (Repealed.) See chap. 95, Laws of 1890, *ante*.
- § 15. (Repealed.) See chap. 95, Laws of 1890, *ante*.
- § 16. (Repealed.) See chap. 95, Laws of 1890, *ante*.
- § 17. (Repealed.) See chap. 95, Laws of 1890, *ante*.
- § 18. (Repealed.) See chap. 95, Laws of 1890, *ante*.
- § 19. (Repealed.) See chap. 95, Laws of 1890, *ante*.
- § 20. (Repealed.) See chap. 95, Laws of 1890, *ante*.

**Proceedings when title is defective; additional land, how acquired; water rights; right of way; acquiring by purchase; condemnation; limitation; proviso in case of mortgagee or receiver.**

§ 21. If, at any time after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made, and at any stage of such new proceedings the court may authorize the corporation, if in possession, to continue in possession; and if not in possession, to take possession, and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum, or giving security as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion if the company delays or omits to prosecute the same. And if at any time after the construction of any railroad operated by steam by any company now existing, or that may hereafter be created, such company, or any company owning, operating or leasing such railroad, or any mortgagee or mortgagees in possession of such railroad, or person or persons appointed by any court of competent authority as receiver or receivers of any such railroad, and in the possession of and operating the same, shall require, for the purposes of its incorporation, or for the purpose of running or operating any railroad so owned, leased or possessed as aforesaid, any real estate in addition to what has been already acquired for the purposes of such railroad, or shall require any further right in lands, or the use of lands for switches, turnouts, or for filling any structures of, or for constructing, widening or completing therewith or thereon any embankments, or the road-bed of such railroad, when thereby greater safety or permanency may be secured, and such lands shall be contiguous to such railroad, and reasonably accessible to the place where the same are to be used for such purpose or purposes, or for the flow of water occasioned by railroad embankments or structures now in use, or hereafter rendered necessary, or for any other purpose necessary to the operation of such railroad; or any right to take and convey water from any spring, pond, creek or river to such railroad, for the uses and purposes thereof, together with the right to build or lay aqueducts or pipes for the purpose of conveying such water, and to take up, relay and repair the same; or any right of way required for carrying away or diverting any waters, streams or floods from such railroad, for the purpose of protecting the same, or for the purpose of preventing any embankment, excavation or structure of such railroad from injuring or damaging the property of any person or parties who may be rendered liable to injury by such embankment, excavation or structure, as the same may have been constructed previous to such time, or may then exist; such company, or mortgagee or mortgagees, person or persons in possession as aforesaid, may acquire such additional real estate, or any property or real estate which they now use or occupy, or right of way or other rights hereinbefore specified, by purchasing the same of the person or parties owning the same, or interested therein, or to be affected thereby, and by paying to such parties such damages as they may sustain by reason thereof, if the amount of such compensation or damages can be agreed upon between such company, or mortgagee or mortgagees, person or persons in possession, and such owner or owners, or parties interested in such additional real estate, and if such company, or mortgagee or mortgagees, person or persons in possession shall, for any cause, be unable to agree for the purchase of such real estate, or right of way, or other rights, or shall be unable to agree upon the sum which shall be paid to such persons or parties in satisfaction of the damages they may sustain, or if the title to any such real estate, or right of way, or other rights already acquired or attempted to be acquired, shall for any cause prove defective or imperfect, then, and in every such case, such company, or mortgagee or mortgagees, person or persons in possession of and operating as aforesaid any such railroad, may proceed to acquire or perfect title to such real estate.

or right of way, or other rights, and to ascertain and appraise such damages in the manner and by the proceedings hereinbefore in this act prescribed. Nothing in this act contained shall authorize the taking of any waters that shall at the time of such taking be commonly used for domestic, agricultural or manufacturing purposes to such an extent as to injuriously interfere with such use in the future. And nothing in this act contained shall authorize any railroad corporation to acquire any such gravel lands not contiguous to its right of way, nor shall it be lawful for any railroad company, or any company herein named, to take or acquire, other than by mutual agreement, any right or easement in or to any lands or real estate owned or occupied by any other railroad corporation excepting the right to intersect or cross the tracks and lands owned or held for right of way by such other company; such intersection and crossing to be limited to points where the same can be made without appropriating or affecting any lands owned or held for depots or gravel beds. Provided, that the mortgagees or mortgagees, receiver or receivers in possession of any railroad as aforesaid, before commencing proceedings to ascertain and appraise damages under the provisions of this act, shall present a petition to the court under whose authority they are acting, or to any court of competent authority, for permission to commence such proceedings, which petition shall set forth that such real estate, right of way, or other rights, as aforesaid, described in said petition, are necessary for the operation of said railroad, or for the protection of the property in their possession, and a copy of which petition, with a notice of the time and place the same would be presented to said court, must be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to said court, and no proceedings to ascertain and appraise damages, as aforesaid, shall be taken by said mortgagee or mortgagees, receiver or receivers, as aforesaid, unless they shall be duly authorized by order of said court. (*Thus amended, Laws of 1881, chap. 649.*)

The provisions of this section so far as same relate to manner of proceeding to acquire title to real estate are superseded by the provisions of chap. 95, Laws of 1890, *ante*.

See chap. 272, Laws of 1847, page 369 hereof.

**Map of route of railroad to be filed before construction; notice to occupants of lands; objections to route, how made; the application to Supreme Court to be accompanied with map of proposed alterations; court to appoint commissioners to examine, who may affirm or alter route; engineer on commission to concur; determination, map and testimony to be filed; appeals; court may affirm route or adopt alteration; the pay of commissioners.**

§ 22. Every company formed under this act, before constructing any part of their road into or through any county named in their articles of association, shall make a map and profile of the route intended to be adopted by such company in such county, which shall be certified by the president and engineer of the company, or a majority of the directors, and filed in the office of the clerk of the county in which the road is to be made, or in the office of register in counties where there is a register's office. The company shall give written notice to all actual occupants of the land over which the route of the road is so designated and which has not been purchased by, or given to the company, of the time and place such map and profile were filed, and that the route designated thereby passes over the land of such occupant. Any occupant or owner of land over which such route passes, feeling aggrieved by the proposed location, may, within fifteen days after receiving written notice as aforesaid, give ten days' notice in writing to such company and to the owners or occupants of lands to be affected by any proposed alteration, of the time and place of an application to the justice of the Supreme Court in the judicial district where said lands

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\*So in original.

are situated by petition duly verified for the appointment of commissioners to examine the said route; such petition shall set forth the petitioner's objections to the route designated by the company, shall designate the route to which it is proposed to alter the same, and shall be accompanied by a survey, map and profile of the route as designated by the company, and of the proposed alteration thereof, copies of which petition, map, survey and profile shall be served upon the company and said owners or occupants, with the notice of the application. If the said justice shall consider sufficient cause therefor to exist, he may, after hearing such parties as shall appear, appoint three disinterested persons, one of whom must be a practical civil engineer, commissioners to examine the route proposed by the company, and the route to which it is proposed to alter the same, and, after hearing the parties, to affirm the route originally designated or adopt the proposed alteration thereof, as may be consistent with the just rights of all parties and the public, including the owners or occupants of lands upon the proposed alteration, but no alteration of the route shall be made except by the concurrence of the commissioner who is a practical civil engineer, nor shall an alteration be made which will cause greater damage or injury to lands, or materially greater length of road, than the route designated by the company would cause, nor which shall substantially change the general line adopted by the company. The determination of the commissioners shall, within thirty days after their appointment, be made and certified by them, and the certificate, with the petition, map, survey and profile, and any testimony taken before them, be filed in the office of the register of the county in counties where there is a register, otherwise in that of the county clerk. Within twenty days after the filing of such certificate any party may, by notice in writing to the others, appeal to the Supreme Court from the decision of the commissioners, which appeal shall be heard and decided at the next general term of the court held in any judicial district in which the lands of the petitioners, or any of them, are situated, for which the same can be noticed according to the rules and practice of said court. On the hearing of such appeal the court may affirm the route proposed by the company or may adopt that proposed by the petitioner. Said commissioners shall each be entitled to three dollars per day for their expenses and services, to be paid by the person who applied for their appointment; and if the route of the road as designated by the company is altered by the commissioners, and their decision is affirmed on appeal (if an appeal be taken), the company shall refund to the applicant the amount so paid. (*Thus amended, Laws of 1871, chap. 580.*)

**Directors may change route; survey; may acquire land; alteration in city or village; compensation; alteration, how effected, when bonds have been issued.**

§ 23. The directors of every company formed under this act may, by a vote of two-thirds of their whole number, at any time, alter or change the route, or any part of the route of their road, or its termini, or locate the said route, or any part thereof, or its termini in a county adjoining any county named in the articles of association, if it shall appear to them that the line can be improved thereby; and they shall make and file in the clerk's office of the proper county a survey, map and certificate of such alteration or change, and shall have the same right and power to acquire title to any lands required for the purposes of the company in such altered or changed route as if the road had been located there in the first instance; and no such alteration shall be made in any city or village after the road shall have been constructed, unless the same is sanctioned by a vote of two-thirds of the common council of said city, or trustees of said village; and in case of any alteration made in the route of any railroad after the company has commenced grading, compensation shall be made to all persons for injury so done to any lands that may have been donated to the company; nothing herein shall be construed to authorize the change of either terminus to any other county than one adjoining that in which it was previously located, nor the reduction of the amount of capital stock per mile below that now required by law. All the provisions of this act relating to the first location and to acquire title to land shall apply to every such

or altered portion of the route. Nor shall the provisions of this section authorize the alteration of the route or terminus of any railroad in any town, county or municipal corporation which has issued bonds, or any town which may be bonded, but whose bonds have not yet been issued, or subscribed for, and taken any stock or bonds in aid of the construction of such railroad without the consent in writing of, and subscribed by, a majority of the tax payers appearing upon the last assessment-roll of said town, county or municipal corporation. But it shall not be necessary to obtain the consent of such tax payers in order to authorize the extension to a new terminus where such terminus after the change will remain in the same village or city as theretofore. But nothing herein shall be construed to authorize the abandonment of any portion of the track of any railroad as described in its articles of association. (*Thus amended, Laws of 1886, chap. 634.*)

See chap. 19, Laws of 1851, at page 363 hereof; § 13, chap. 282, Laws of 1854, at page 874 hereof; chap. 843, Laws of 1872; page 364 hereof; chap. 560, Laws of 1871, page 377 hereof.

**Crossings and intersections; how additional land for, taken highway may be carried over or under.**

§ 24. Whenever the track of a railroad constructed by a company formed under this act shall cross a railroad, a highway, turnpike or plankroad, such highway, turnpike or plankroad may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road, highway, turnpike or plankroad on such new line as may be deemed requisite by the directors. Unless the land so taken shall be purchased for the purposes aforesaid, compensation therefor shall be ascertained in the manner prescribed in this act for acquiring title to real estate, and duly made by said corporation to the owners and persons interested in such lands. The same, when so taken, shall become a part of such intersecting highway, turnpike or plankroad, in such manner and by such tenure as the adjacent parts of the same highway, turnpike or plankroad may be held for highway purposes.

**State land, how acquired by company.**

§ 25. The Commissioners of the Land Office shall have power to grant to any railroad company formed under this act, any land belonging to the people of this State, which may be required for the purposes of their road, on such terms as may be agreed on by them; or such company may acquire title thereto by appraisal, as in the case of lands owned by individuals; and if any land belonging to a county or town is required by any company for the purposes of the road, the county or town officers having the charge of such land may grant such land to such company, for such compensation as may be agreed upon. The land included in the State reservation at Niagara and the the\* concourse lands on Coney Island are expressly exempted from the provisions of this section. (*Thus amended, chap 601, Laws of 1886.*)

As to State salt lands, see chap. 346, Laws 1848, page 360.

As to Indian lands, see chap. 316, Laws 1836, page 361.

As to Chautauque Assembly grounds, see chap. 403, Laws of 1886, page 440.

As to "Forest Lands," see chap. 283, Laws of 1885, page 471.

**Title, how acquired, when trustees, guardian or committee are not authorized to sell.**

§ 26. In case any title or interest in real estate required by any company formed under this act, for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot or person of unsound mind, the Supreme Court shall have power, by a summary proceeding on petition to authorize and empower such trustee, or the general guardian or committee of such

\* So in the original.



infant, idiot, or person of unsound mind, to sell and convey the same to such company, for the purposes of its incorporation, on such terms as may be just; and in case any such infant, idiot, or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is to be executed shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

**Weight of iron rails on grades, etc.; how to apply act.**

§ 27. No company formed under this act shall lay down or use in the construction of their road any iron rail of less weight than fifty-six pounds to the lineal yard on grades of 110 feet to the mile or under, and not less than seventy pounds to the lineal yard on grades of over 110 feet to the mile, except for turnouts, sidings and switches, provided this section shall apply only to roads now being constructed or hereafter to be constructed, when the gauge of said road exceeds four feet or over. (*Thus amended, Laws of 1871, chap. 669.*)

As to Kanona and Prattsburgh R. R., see Laws of 1886, chap. 607.

**Additional powers conferred.**

§ 28. Every corporation formed under this act shall, in addition to the powers conferred on corporations in the third title of the eighteenth chapter of the first part of the Revised Statutes, have power.

See title 3, chap. 18, part 1 of the Revised Statutes, referred to in foregoing section, pages 350, 351.

**May enter upon lands for purpose of survey.**

1. To cause such examination and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose, by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to the responsibility for all damages which shall be done thereto.

**May hold voluntary grants of real estate.**

2. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grants shall be held and used for the purpose of such grant only.

**May purchase, hold and use real estate; reference to Indian lands.**

3. To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing, or in any way affecting, the act entitled "An act authorizing the construction of railroads upon Indian lands," passed May 12, 1836.

See chap. 316, Laws of 1836, entitled "An act authorizing the construction of railroads upon Indian lands," referred to in above section, page 361 hereof.

**Construction of road.**

4. To lay out its road not exceeding six rods in width, and to construct the same; and for the purpose of cuttings and embankments, to take much more land as may be necessary for the proper construction and security of the road; and to cut down any standing trees that may be danger of falling on the road, making compensation therefor as provided in this act for lands taken for the use of the company.

May construct road across any stream, canal and highway; bridges or obstructions prohibited; streets in cities not to be used without consent of corporation, nor along highways without consent.

5. To construct their road across, as provided in section twenty-four of this act, and along or upon any stream of water, water-course, street, highway, plankroad, turnpike, or across any of the canals of this State, which the route of its road shall intersect or touch, but the company shall restore the stream or water-course, street, highway, plankroad and turnpike thus intersected or touched to its former state, or to such state as not unnecessarily to have impaired its usefulness. Every company formed under this act shall be subject to the power vested in the Canal Commissioners by the seventeenth section of chapter 276 of the Session Laws of 1834. Nothing in this act contained shall be construed to authorize the erection of any bridge, or any other obstruction across, in or over any stream or lake navigated by steam or sail boats, at the place where any bridge or other obstructions may be proposed to be placed; nor to authorize the construction of any railroad not already located in, upon or across any streets in any city, without the assent of the corporation of such city; nor to authorize any such railroad company to construct its road upon and along any highway, without the order of the Supreme Court of the judicial district in which said highway is situated, made at a special term of said court, after at least ten days' notice in writing of the intention to make application for said order, shall have been given to the commissioners of highways of the town in which said highway is situated. (*Thus amended, Laws of 1887, chap. 724.*)

See § 17, chap. 276, Laws of 1834, referred to in foregoing section, page 360 hereof. Damages for crossing turnpike or plankroad, § 4, chap. 19, Laws of 1861, page 363 hereof.

See chap. 300, Laws of 1835, page 440, and chap. 255, Laws of 1855, at page 441 hereof.

See chap. 140, Laws of 1882, page 423 hereof; § 17, chap. 262, Laws 1864, page 375 hereof.

See, also, chap. 478, Laws of 1855, page 361 hereof, and chap. 62, Laws of 1863, page 440 hereof.

As to certain streets in New York city, see chap. 179, Laws of 1867.]

Right to cross, intersect, etc., other railroads; proceedings in case two corporations cannot agree; companies shall receive from each other and forward freight.

6. To cross, as provided in section twenty-four of this act, and to intersect, join and unite its railroad with any other railroad before constructed, at any point on its route and upon the ground of such other railroad company, with the necessary turn-outs, sidings and switches, and other conveniences in furtherance of the objects of its connection. And every company whose railroad is or shall be hereafter intersected by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the line or lines, the grade or grades, points and manner of such crossing and connections, the same shall be ascertained and determined by commissioners, one of whom must be a practical civil engineer, to be appointed by the courts, as is provided in this act in respect to acquiring title to real estate; and said commissioners shall have full power to determine whether the crossing or crossings of any railroad before constructed shall be beneath, at or above the existing grade of any such railroad, and upon the route designated on the map of the company seeking the crossing required to be filed by section twenty-two of this act, or otherwise. And all companies whose railroads are or shall hereafter be crossed, intersected or joined as aforesaid shall receive from each other and forward to their destination all goods, merchandise and other property intended for points on their respective roads with the same dispatch and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandise and other property received at and forwarded from the same point for individual and other corporations. (*Thus amended, Laws of 1887, chap. 724.*)

Nothing in this act contained shall apply to any street surface railroad in the city of New York (Laws of 1880, chap. 583, § 2).

See, also, chap. 222, Laws of 1847, page 362 hereof.

**Legislature may alter or reduce rate of freight, fare, etc.**

§ 33. The Legislature may, when any such railroad shall be opened for use, from time to time alter or reduce the rate of freight, fare or other profits upon such roads; but the same shall not, without the consent of the corporation, be so reduced as to produce with said profits less than ten per centum per annum on the capital actually expended; nor unless on an examination of the amounts received and expended, to be made by the "Board of Railroad Commissioners," they shall ascertain the net income derived by the company from all sources for the year then last past shall have exceeded an annual income of ten per cent upon the capital of the corporation actually expended. (*Thus amended, Laws of 1883, chap. 381.*)

**Mails.**

§ 34. Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on their road or roads respectively; and in case such corporations shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it shall be lawful for the Governor of this State to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the Postmaster-General shall require the mail to be carried at other hours, or at higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses, and wear and tear thereof, and for the service, to be fixed as aforesaid.

See § 17, chap. 215, Laws of 1846, at page 368 hereof.

**Passengers refusing to pay fare.**

§ 35. If any passenger shall refuse to pay his fare it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, or near any dwelling-house, as the conductor shall elect, on stopping the train.

**Notice of times of starting, etc.; preferences forbidden.**

§ 36. Every such corporation shall start and run their cars for the transportation of passengers and property at regular times to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting, and at the junctions of other railroads and at the usual stopping places established for receiving and discharging way passengers and freights for the train, and shall take, transport and discharge such passengers and property at and from and to such places on the due payment of the fare or freight legally authorized therefor. No preference for the transaction of business shall be granted by said railroad corporation to any one of two or more companies or associations competing in the business of transporting property for themselves or for others, upon the railroad owned or operated by such corporation, either upon the cars or in the depots or buildings, or upon the grounds of such corporation; and whenever the railroad of such corporation at or near the same place connects with or is intersected by any other railroad, such corporation shall fairly and impartially grant and afford to each of such competing companies or associations equal terms of accommodation, privileges and facilities in the transportation of property and freight to and upon such connecting or intersecting railroad, and shall also grant and afford to each of said competing companies or associations, and to the officers, agents and employees thereof equal facilities in the interchange and use of express, freight and

other cars, so far as may be necessary to accommodate the business of each of such competing companies or associations, and every railroad corporation shall be liable to the party aggrieved in an action for damages for any neglect or refusal in the premises. The provisions of this section shall apply to all existing railroad corporations. (*Thus amended, Laws of 1867, chap. 49.*)

See § 9, chap. 270, Laws of 1847, at page 368, as to liability of connecting railroads for freight and as common carriers.

**Baggage arrangement; checks to be given; penalty for refusal.**

§ 37. A check shall be affixed to every parcel of baggage, when taken for transportation, by the agent or servant of such corporation, if there is a handle, loop or fixture so that the same can be attached upon the parcel or baggage so offered for transportation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand, the corporation shall pay to such passenger the sum of ten dollars to be recovered in a civil action; and, further, no fare or toll shall be collected or received from such passenger, and if such passenger shall have paid his fare, the same shall be refunded by the conductor in charge of the train, and on producing said check, if his baggage shall not be delivered to him, he may himself be a witness in any suit brought by him, to prove the contents and value of said baggage.

As to checks for baggage, weight of baggage, etc., see chap. 270, Laws of 1847, § 8, page 368 hereof, chap. 272, Laws of 1847, § 6, at page 370 hereof, and chap. 300, Laws of 1857, at page 477, also chap. 573, Laws of 1866, page 370 hereof.

§ 38. (Repealed.) (*Chap. 593, Laws of 1866, see § 422 Penal Code, p. 493.*)

§ 39. (Repealed.) (*Sec. 18, chap. 282, Laws of 1854, p. 375.*)

**Sign-boards at road crossings; size of inscription; proviso.**

§ 40. Every such corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each traveled public road or street where the same is crossed by the railroad, on the same level. Said boards shall be elevated so as not to obstruct the travel, and to be easily seen by travelers; and on each side of such boards shall be painted in capital letters, of at least the size of nine inches each, the words, "Railroad crossing, look out for the cars." But this section shall not apply to streets in cities or villages, unless the corporation shall be required to put up such boards by the officers having charge of such streets.

As to ringing bell and blowing whistle at street or highway crossing, see § 7, chap. 262, Laws of 1854, at page 373 hereof.

§ 41. (Repealed.) (*Chap. 593, Laws of 1866, see § 420 Penal Code, p. 493.*)

As to age of employees, see chap. 246, Laws of 1855, page 479.

See Penal Code provisions as to employees, §§ 362, 190, 418, 419, 420, 421, 422, at pages 492, 493 hereof.

§ 42. (Repealed.) (*Chap. 593, Laws of 1866, see §§ 635, 638, Penal Code, pp. 490, 491.*)

As to trespass upon or injury to railroad property, see Penal Code, §§ 487, subd. 4, 488, 489, 506, 645, 636, 638, at pages 489, 490 and 491 hereof.

**Penalties; how sued for.**

§ 43. All penalties imposed by this act may be sued for in the name of the people of the State of New York; and if such penalty be for a sum not exceeding one hundred dollars, then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director of such company.

As to suits for penalties, see Code of Criminal Procedure, §§ 675 to 682; pp. 486, 487 hereof.

**Fencing; cattle-guards; penalty for driving animals on railroads; unlawful to walk upon track.**

§ 44. Every corporation formed under this act shall erect and maintain fences on the sides of their road, of the height and strength of a division fence required by law, with openings or gates or bars therein, and farm crossings of the road for the use of the proprietors of lands adjoining such railroad; and also construct and maintain cattle-guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on to the railroad. Until such fences and cattle-guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agents or engines to cattle, horses, or other animals thereon; and after such fences and guards shall be duly made and maintained, the corporation shall not be liable for any such damages, unless negligently or willfully done; and if any person shall ride, lead or drive any horse or other animal upon such road, and within such fences and guards, other than at farm crossings, without the consent of the corporation, he shall, for every such offense, forfeit a sum not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby to the party aggrieved. It shall not be lawful for any person, other than those connected with or employed upon the railroad, to walk along the track or tracks of any railroad, except where the same shall be laid along public roads or streets.

See § 8, chap. 282, Laws of 1864, at page 373. As to owner fencing, see § 9, page 374.

**Maps to be filed with State Engineer and Surveyor and in county clerks' offices; scale of maps.**

§ 45. Every corporation shall, within a reasonable time after their road shall be constructed, cause to be made:

A map and profile thereof, and of the land taken or obtained for the use thereof, and file the same in the office of the State Engineer and Surveyor; and also like maps of the parts thereof located in different counties, and file the same in the offices for recording deeds in the county in which such parts of said road shall be. Every such map shall be drawn on a scale, and on paper, to be designated by the State Engineer and Surveyor, and certified and signed by the president or engineer of such corporation.

See, however, in connection herewith, § 31, *ante*.

**Duty of passengers.**

§ 46. In case any passenger on any railroad shall be injured while on the platform of a car, or on any baggage, wood, or freight car, in violation of the printed regulations of the company posted up at the time in a conspicuous place inside of its passenger cars then in the train, such company shall not be liable for the injury; provided such company at the time furnished room inside its passenger cars sufficient for the proper accommodation of the passengers.

**Road, when to be commenced and finished.**

§ 47. If any corporation formed under this act shall not, within five years after its articles of association are filed and recorded in the office of the Secretary of State, begin the construction of its road, and expend thereon ten per cent on the amount of its capital, or shall not finish its road and put it in operation in seven years from the time of filing its articles of association as aforesaid, its corporate existence and powers shall cease.

This extension of time shall apply to all corporations whose articles of association have been filed within five years before the passage of this act. (*Thus amended, Laws of 1864, chap. 582.*)

As to extension of time, see Laws of 1867, chap. 775, at page 380 hereof; also chap. 8, Laws 1875, at page 380 hereof; also chap. 408, Laws of 1872 at page 380 hereof.

**Legislative power to dissolve.**

§ 48. The Legislature may at any time annul or dissolve any incorporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporation, its stockholders or officers for any liability which shall have been previously incurred.

See Const. State of N. Y., art. 8, § 1, at page 360 hereof.

**What sections of this law applicable to existing corporations.**

§ 49. All existing railroad corporations within this State shall respectively have and possess all the powers and privileges contained in this act; and they shall be subject to all the duties, liabilities and provisions not inconsistent with the provisions of their charter, contained in sections 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28 (except subdivision 9), 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, of this act.

**General repeal.**

§ 50. The act entitled "An act to authorize the formation of railroad corporations," passed March 26, 1848, and the acts amending the same, are hereby repealed; but all railroad companies formed under said act are hereby continued in existence in the same manner as if said acts were not repealed; and such companies shall be subject to all the provisions, and shall have the same powers, rights and privileges, and be subject to the same duties as if they had been incorporated under this act; and the time limited by said act for the expenditure of ten per cent of their capital stock is hereby extended two years from the passage of this act; and the time limited in said section of said law for their completion is hereby extended to five years from the passage of this act; and also the time for completing any railroad organized previous to March 27, 1848, whose road was under contract prior to February 1, 1850, to be completed within the time prescribed by its charter, is hereby extended for one year.

**New York and Erie railroad.**

§ 51. Nothing in this act contained shall authorize or permit the New York and Erie Railroad Company to abandon the use of their road in the county of Rockland, east of Suffern's depot.

# REVISED STATUTES.

## TITLE 3, CHAPTER 18, PART 1, REFERRED TO IN SECTION 1 OF THE GENERAL RAILROAD ACT.

### General powers.

SECTION 1. Every corporation, as such, has power:

1. To have succession by its corporate name for the period limited in its charter, and when no period is limited, perpetually;

2. To sue and be sued, complain and defend, in any court of law or equity;

3. To make and use a common seal, and alter the same at pleasure;

4. To hold, purchase and convey such real and personal estate as the purposes of the corporation shall require, not exceeding the amount limited in its charter.

[Any corporation which shall have sold and conveyed any part of its real estate may, notwithstanding any restriction in its charter, purchase, take and hold, from time to time, any lands adjacent to those already held by it; provided the Supreme Court shall authorize such purchase, taking and holding upon the application of such corporation, and on being satisfied that the value of all lands proposed to be so purchased shall not exceed that of lands sold and conveyed by the said corporation within the three years next preceding such application.] (§ 1, chap. 290, Laws of 1882.)

5. To appoint such subordinate officers and agents as the business of the corporation shall require, and to allow them a suitable compensation.

6. To make by-laws not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock.

### In what corporations to vest.

§ 2. The powers enumerated in the preceding section shall vest in every corporation that shall hereafter be created, although they may not be specified in its charter or in the act under which it shall be incorporated.

### What other powers to be possessed.

§ 3. In addition to the powers enumerated in the first section of this title, and to those expressly given in its charter, or in the act under which it is or shall be incorporated, no corporation shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers so enumerated and given.

### Exercise of banking powers prohibited.

§ 4. No corporation created, or to be created, and not expressly incorporated for banking purposes, shall, by any implication or construction, be deemed to possess the power of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold and silver bullion, or foreign coins, of buying and selling bills of exchange, or of issuing bills, notes, or other evidences of debt, upon loan, or for circulation as money.

### Liability of stockholders.

§ 5. Where the whole capital of a corporation shall not have been paid in, and the capital paid shall be insufficient to satisfy the claims of its creditors, each stockholder shall be bound to pay, on each share held by him, the sum necessary to complete the amount of such share, as fixed by the charter of the company, or of such proportion of that sum as shall be required to satisfy the debts of the company.

### Quorum.

§ 6. When the corporate powers of any corporation are directed by its charter to be exercised by any particular body, or number of persons a

majority of such body or persons, if it be not otherwise provided in the charter, shall be a sufficient number to form a board for the transaction of business, and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act.

**Forfeiture for non-user; not applicable to railroads incorporated under the general act.**

§ 7. If any corporation hereafter created by the Legislature shall not organize and commence the transaction of its business within one year from the date of its incorporation, its corporate powers shall cease.

*The seventh section not to apply in certain cases.*

[The seventh section of title 3, chapter 18, of the first part of the Revised Statutes shall not be so construed as to apply to any act for incorporating a railroad company which has, or shall have in its own provisions the terms and times in which it shall be forfeited for non-user.] (§ 1, chap. 155, Laws of 1846.)

See General Act, § 1.

**Reservation of power to repeal.**

§ 8. The charter of every corporation that shall hereafter be granted by the Legislature shall be subject to alteration, suspension and repeal, in the discretion of the Legislature.

**Trustees in case of dissolution.**

§ 9. Upon the dissolution of any corporation created or to be created, and unless other persons shall be appointed by the Legislature or by some court of competent authority, the directors or managers of the affairs of such corporation at the time of its dissolution, by whatever name they may be known in law, shall be the trustees of the creditors and stockholders of the corporation dissolved, and shall have full power to settle the affairs of the corporation, collect and pay the outstanding debts, and divide among the stockholders the moneys and other property that shall remain, after the payment of debts and necessary expenses.

**Powers of trustees.**

§ 10. The persons so constituted trustees shall have authority to sue for and recover the debts and property of the dissolved corporation, by the name of the trustees of such corporation, describing it by its corporate name, and shall be jointly and severally responsible to the creditors and stockholders of such corporation to the extent of its property and effects that shall come into their hands.



# ACT CREATING BOARD OF RAILROAD COMMISSIONERS

## CHAP. 353, LAWS OF 1882.

AN ACT to create a Board of Railroad Commissioners, and to define and regulate its powers and duties.

**Board of Railroad Commissioners to be appointed; how selected; vacancies, how filled; Governor may suspend Commissioner; secretary, his duties; marshal; Commissioners and secretary to take constitutional oath; who prohibited from holding office of Commissioner or secretary.**

SECTION 1. There shall be in and for the State of New York a Board of Railroad Commissioners, to consist of three competent persons, who shall be appointed by the Governor, by and with the advice and consent of the Senate, one of whom shall hold office three years, one four years, and one five years. Such appointments shall be made within ten days after the 3d day of January, 1883. One of said persons shall be selected from the party which shall cast at the next general election the greatest number of votes for Governor of the State, and one of said persons shall be selected from the party which shall cast at the next general election the next greatest number of votes for Governor of the State, one of whom shall be experienced in railroad business, and one of said persons shall be selected upon the recommendation of the presidents and executive committees, or a majority of such, of the Chamber of Commerce of the State of New York, the New York Board of Trade and Transportation, and the National Anti-Monopoly League of New York, as said organization now exists, or any two of such organizations so represented, in case of disagreement. And after such appointment first made, the Governor, by and with the advice and consent of the Senate, shall in each year that a vacancy occurs fill the same by appointment for the term of five years. If any vacancy happens by resignation or otherwise, he shall in the same manner appoint a Commissioner for the residue of the term. Any Commissioner may be suspended from office by the Governor upon written charges preferred. The Governor shall report the fact of such suspension and the reasons therefor at the beginning of the next ensuing session of the Senate, and if a majority of such Senate shall approve the action of the Governor, such Commissioner shall be removed from office and his term of office shall expire. If the Senate shall not be in session at the time any such vacancy shall occur or exist, the Governor shall appoint a Commissioner to fill the vacancy, subject to approval of the Senate when convened. Said Board shall have a clerk or secretary, who shall be appointed by the Board to serve during their pleasure, and whose duty shall be to keep a full and faithful record of the proceedings of said Board, and file and preserve at the general office of said Board all books, maps, documents and papers intrusted to his care, and prepare for service such papers and notices as may be required of him by the Commissioners, and perform such other duties as the Board may prescribe; and he shall have power, under direction of the Board, to issue subpoenas for witnesses, and to administer oaths in all cases pertaining to the duties of his office. Such Board shall also appoint a marshal, whose duty it shall be to attend at the offices, and at the meetings and examinations of said Board as required, and to serve notices and other papers, and perform such other duties as the Board shall prescribe. Said Commissioners and clerk shall take and subscribe the constitutional oath of office and be sworn to the due and faithful performance of the duties of their

respective offices, before entering upon the discharge of the same; and no person in the employ of, or holding any official relation to any railroad corporation, or owning stock or bonds in any railroad corporation, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any railroad corporation, shall hold either of said offices, nor shall either of said Commissioners be engaged in any other business vocations.

The provisions of the foregoing section relative to clerk or secretary amended by chap. 441, Laws of 1884, § 1. See page 358 hereof.

**Principal office; may establish branch offices in cities of New York and Buffalo; meetings; supplies for offices.**

§ 2. The principal office of said Board shall be at the city of Albany, in rooms to be designated by the Capitol Commissioners, but the said Board may also establish a branch office at the city of New York, and one at the city of Buffalo, if in their judgment such branch offices, or either of them, will be necessary for the proper and convenient transaction of the business and duties of said Board; and said Board, or a quorum thereof, shall meet at least once a month during the year at their office in the city of Albany, and a record of their proceedings shall be published in their annual report to the Legislature. Said offices shall be supplied with necessary postage, stationery, office furniture and appliances, the expense thereof to be paid as other expenses authorized by this act.

**Quorum; Board may order and direct examinations and investigations to be taken by and before one Commissioner; proceedings and decisions not final and conclusive, however, until confirmed by the Board.**

§ 3. Any two of said Commissioners shall constitute a quorum for the transaction of any of the business or duties of said Board, and may hold meetings thereof at any time or place within the State. All examinations or investigations hereinafter provided for may be held and taken by and before any one of said Commissioners, if so ordered and directed by the Board; but the proceedings and decisions of said single Commissioner therein shall not be deemed final and conclusive until approved and confirmed by the Board.

**Powers and duties of Board; notice to be given of investigations, examination of books, etc.; fees of witnesses; subpoenas; when to examine books, etc.; to what companies act applies.**

§ 4. Said Board of Commissioners shall have power to administer oaths in all matters relating to their duties, and shall have the general supervision of all railroads and railways (so far as necessary to enable them to perform the duties and exercise the power imposed and conferred by law) and shall examine the same, and keep themselves informed as to their condition, and the manner in which they are operated, with reference to the security and accommodation of the public and the compliance of the several corporations with the provisions of their charters and the laws of the State; it shall also be the duty of said Board of Railroad Commissioners to investigate the causes of any accident on a railroad, resulting in loss of life or injury to person or persons, which, in their judgment, shall require investigation, and the result of such investigation shall also be reported upon in the annual report of the Commissioners to the Legislature; and it is hereby made the duty of the general superintendent or manager of each railroad in this State to inform the said board of any such accident immediately after its occurrence. Before proceeding to make any such examination or investigation of the condition or operation of any railroad in this State, or any accident thereon, in accordance with this act, said Board shall give reasonable notice to the corporation, person or persons conducting and managing the same of the time and place of entering upon said examination. And such Board of Railroad Commissioners shall have power, for the purposes provided for in this act, to examine the books and affairs of any railroad company or corporation, or to compel the production of copies of books and papers, subpoena witnesses, administer oaths to them, and compel their attendance

and examination, as though such subpoena had issued from a court of record of this State. The fees of witnesses before such Railroad Commissioners shall be \$2 for each day's attendance, and five cents per mile traveled by the nearest practicable route in going to and returning from the place where the attendance of the witness is required. All subpoenas shall be signed by the secretary of the Commission, and may be served by any person of full age authorized by the Commission to serve the same. Fees of witnesses shall be audited and paid by the Comptroller on the certificate of the secretary of the Commission, which shall state the number of days which each witness attended, and the number of miles traveled. Whenever any such examination of the affairs of any railroad corporation shall take place in which such Board will require the examination of the books and affairs of such company or corporation, or the subpoenaing of witnesses, who are in the employ of such company or corporation, the Board or a Commissioner thereof shall sit for such purpose in the city or town of this State where the principal business office of such railway corporation may be situated. The Board of Commissioners, however, shall have the power to require copies of books and papers, or abstracts thereof, as provided for in this section, to be sent to them to any part of this State. And the provisions of this act shall apply to all railroads and railways and the corporations, receivers, trustees, directors, or others owning, or operating the same; and also to all sleeping and drawing-room car companies or corporations, and to all other associations, partnerships, companies or corporations engaged in transporting passengers or freight upon any railway as lessees or otherwise.

As to subpoenas, see § 1, chap. 441, Laws of 1884, at page 358 hereof.

**When violation of law by corporations; powers of Commissioners.**

§ 5. Whenever, in the judgment of the Board of Railroad Commissioners, it shall appear that any such corporation has violated any constitutional provision or law, or neglects in any respect or particular to comply with the terms of the act by which it was created, or unjustly discriminates in its charges for services, or usurps any authority not by its act of incorporation granted, or refuses to comply with the provisions of any of the laws of the State, or with any recommendation of said Board of Commissioners, they shall give notice thereof, in writing, to such corporation; and if the violation or neglect is continued after such notice, the Board may forthwith present the fact to the Attorney-General, who shall take such proceedings thereon as may be necessary for the protection of public interests.

**Where repairs are necessary; change in rates of fare for transportation of freight or passengers; change in the mode of operating the road, etc.; Board to give notice to corporation, in writing, when corporation neglects or refuses to comply; Board to present facts to Attorney-General, also to report same to Legislature.**

§ 6. Whenever, in the judgment of the said Board of Railroad Commissioners, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad within this State, or that any addition to the rolling stock, or any addition to or change of the stations or station-houses, or that additional terminal facilities shall be afforded, or that any change in the rates of fare for transporting freight or passengers, or that any change in the mode of operating the road and conducting its business is reasonable and expedient in order to promote the security, convenience and accommodation of the public, the said Board shall give notice and information, in writing, to the corporation of the improvements and changes which they deem to be proper, and shall give such corporation an opportunity for a full hearing thereon, and if the corporation refuses or neglects to make such repairs, improvements and changes within a reasonable time after such information and hearing, and shall not satisfy said Board that no action is required to be taken by it, the said Board shall present the facts in the case to the Attorney-General for his consideration and action; and shall also report the same facts in a special report or in the annual report of said Board to the Legislature.

**Corporations to furnish necessary information; copies of contract, etc., publicity; penalty.**

§ 7. Every railroad corporation shall at all times, on request, furnish the said Board of Railroad Commissioners any necessary information required by them concerning the condition, management and operation of its railroad, and particularly with the rates of fare for transporting freight and passengers upon its road and other roads with which its business is connected, and such railroad corporation shall also at all times on request furnish to such Board of Railroad Commissioners copies of all contracts and agreements, leases or other engagements by such corporation entered into with any person or persons, corporation or corporations. But said Commissioners shall not be required to give publicity to such information, contracts, agreements, leases or other engagements, if in their judgment the public interests do not require it or the welfare and prosperity of railway corporations of this State might be thereby otherwise injuriously affected. Every officer, agent or employee of any railroad company who shall, upon due notice, neglect or refuse to make or furnish any statement or report required by said Commissioners in their judgment necessary to the purpose of this act, or who shall willfully hinder, delay or obstruct the said Commissioners in the discharge of the duties imposed by this act, shall be guilty of a misdemeanor.

**Not to affect legal rights.**

§ 8. No personal examination, request or advice of the said Board of Railroad Commissioners, nor any investigation or report made by the same, shall have the effect to impair, in any manner or degree, the legal rights, duties or obligations of any railroad corporation or its legal liability for the consequence of its acts, or of the neglect or mismanagement of any of its agents or servants.

**Annual report to Legislature; duty of Board; duty of Board to recommend and draft bills, etc.; change of railway laws.**

§ 9. The said Board of Railroad Commissioners shall make an annual report to the Legislature of their doings, including such statements, facts and explanations as will disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the State, and such suggestions as to the general railroad policy of the State, or the amendment of its laws, or as to the condition, affairs or conduct of any of the railroad corporations as may seem to them appropriate. And the said Board of Railway Commissioners shall be charged with the duty to recommend and draft for the Legislature such bills as will, in their judgment, protect the people's interest in and upon the railways of this State. And it shall likewise be the duty of such Commissioners to take testimony upon, and have hearing for and against, any proposed change of the law relating to any railway or railways, or proposed change of the general law in relation to railways, if requested to do so by the Legislature, or by the committee on railroads of the Senate or Assembly, or by the Governor, or by any railroad company, or by any incorporated organization representing agricultural or commercial interests in the State, and such Commissioners shall thereupon report their conclusions, in writing, to the Legislature, or to such legislative committee, Governor, company, or such organization from whom the request to act emanated.

**Board has power to prescribe form of report; notice, when blank form of returns to be furnished; tables and abstracts, what to be presented to Legislature in annual report; return to be preserved.**

§ 10. The said Board of Railroad Commissioners shall have power to prescribe the form of the report required to be made by railroad corporations, under section 31 of chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and may from time to time make such changes and additions to such form, giving to the corporations six months' notice, before the expiration of any fiscal year, of any such changes and additions which would require any alteration in the method or form of keeping their accounts, and the report by said "Act to authorize the formation of rail-

road corporations, and to regulate the same," of 1850, required to be made to the State Engineer and Surveyor, shall hereafter be made to such Board of Railroad Commissioners. Until such Board of Railroad Commissioners, however, shall change or alter the form of the report, the form now prescribed by law shall be followed by the said railroad corporations. And the said Board of Railroad Commissioners shall, on or before the fifteenth day of September in each year, furnish a blank form of such returns. When the return received from any corporation is defective, or believed to be erroneous, the Board shall notify the corporation to amend the same within thirty days. The said Board shall prepare such tables and abstracts of all the returns as they shall deem expedient, and which shall be contained in their annual report, and their annual report shall be transmitted to the Legislature on or before the second Monday in January, each year, and which annual report shall among other things, contain an abstract of the proceedings of the Board during the preceding year, and also drafts of bills which have been submitted by the Board to the Legislature and the reason therefor, and such suggestions as to the workings of the laws of the State on the subject of railways and transportation, as to the said Board may seem proper and expedient. The originals of the returns as amended, subscribed and sworn to as now provided by law, or as hereafter to be provided by the said Board of Railway Commissioners, shall be preserved in the office of the Board.

**Commissioners' edition of annual report; how distributed**

§ 11. There shall be printed, in addition to the regular number prescribed by law, as a public document of the State, 500 copies, to be bound in cloth, of the annual report of Railroad Commissioners, with the returns of the corporations for the use of the said commissioners, and to be distributed by them to such railroad corporations and other bodies of persons interested therein, in the discretion of the said Commissioners.

**Salaries of clerical force; temporary employment of engineers, accountants and experts; passes; State to procure necessary books, etc.; reimbursement of Commissioners for expenses and disbursements, also for clerks and marshal; salaries and expenses to be audited by Comptroller; appropriation.**

§ 12. The annual salary of each Commissioner shall be \$8,000, payable quarterly from the treasury of the State. The annual salary of the chief clerk or secretary shall be \$3,000, and of the marshal, \$1,500, payable from the treasury of the State. The said Board shall also have power to employ such additional clerical force, not exceeding in number three persons, however, at salaries not to exceed in the aggregate the sum of \$3,000 per annum, as they may find necessary for the purpose of preparing the reports required by this act, and such other clerical duties as may be required of them by said Board. And such Board of Railroad Commissioners may have the power to employ engineers, accountants and other experts, whose services they may deem to be of temporary importance in the conducting of any investigation herein provided. In the discharge of the duties of their office they shall be transported over the several railroads in the State free of charge upon passes signed by the Secretary of State; they may employ and take with them, experts or other agents whose services they may deem to be temporarily of importance, and who shall also be transported, while on such duty, free of charge upon passes signed by the Secretary of State; and they shall have procured for them by the State the necessary books, maps and statistics incidentally necessary for the discharge of the duties of their office; and they shall also have reimbursed to them quarterly the expenses and disbursements they may have incurred in traveling, and for the necessary travel expenses and disbursements of their clerks, marshal and of experts; which expenses, however, shall not exceed in the aggregate \$500 a month; and a statement of such expenditures in detail shall accompany the annual report. The salaries and expenses authorized by this act shall be audited and allowed by the Comptroller, and paid in the first place by the State Treasurer upon the order of the Comptroller, out of any unappropriated funds from time to time remaining in the treasury. The sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated to carry out the provisions of this act. (*Thus amended by chap. 388, Laws of 1883.*)

**Limit of total annual expense to be borne by railroads; apportioned by Comptroller and State Assessors.**

§ 13. The annual total expense of the said Board of Railroad Commissioners, including salaries for Commissioners' clerks and marshal, and additional clerical force, printing of additional copies of report, as provided by section eleven of this act, and all other expenses incident to said Board, excepting only rent of office, shall not exceed the sum of \$50,000, and such expenses shall be borne by the several corporations owning or operating railroads according to their means, to be apportioned by the Comptroller and State Assessors, who, on or before the first day of July in each year, shall assess upon each of said corporations its just proportion of said expenses, one-half in proportion to its net income for the year next preceding that in which the assessment is made, and one-half in proportion to the length of main track or tracks on road, and such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations.

See chap. 441, Laws of 1884, at page 388 hereof.

**Right of Commissioners to enter cars, offices and depots; not to solicit appointments, etc.; penalty for violation; not to accept passes or gratuities from railroad companies; applicable to employees; revealing information a misdemeanor.**

§ 14. Said Railroad Commissioners, and either of them, shall have the right in their or his official capacity to enter and remain during business hours in the cars, offices and depots, and upon the railroads of any railroad company within this State, in the performance of official duties; but said Railroad Commissioners shall not, directly or indirectly, solicit or request from, or recommend to any railroad corporation, or any officer, attorney or agent thereof, the appointment of any person or persons to any place or position, nor shall any railroad corporation, its attorney or agent, offer any place, appointment or position or other consideration to such Commissioners, or either of them, nor to any clerk or employee of said Commissioners whatever; neither shall said Commissioners, nor their secretary, clerks, agents, employees or experts accept, receive or request any pass from any railroad in this State for themselves or for any other person, or any present, gift or gratuity of any kind from any railroad corporation, and the request or acceptance by them, or either of them, of any such place or position, pass, presents, gifts or other gratuity shall work a forfeiture of the office of the said Commissioner or Commissioners, secretary, clerk or clerks, agent or agents, employee or employees, expert or experts, who shall be guilty thereof; and any violation of this section, or of any part thereof, shall also be deemed a misdemeanor and punishable as such, and any Commissioner, secretary, clerk, agent, employee or expert who shall secretly reveal any information gained by him from one railroad company to any other railroad company or person shall be guilty of a misdemeanor. (*Thus amended by chap. 388, Laws of 1883.*)

**Repeal.**

§ 15. All acts and parts of acts inconsistent with the foregoing provisions are hereby repealed.

#### CHAP. 421, LAWS OF 1884.

**AN ACT** in relation to certified copies of documents in the office of the Board of Railroad Commissioners, the fees to be charged therefor, and providing for a seal for the use of the Board.

**Certified copies evidence.**

SECTION 1. Copies of all official documents, filed or deposited, according to law, in the office of the Board of Railroad Commissioners, when certified by a member of the Board or by its Secretary, in the form of and pursuant to law, shall, in all cases, be evidence equally and in like manner as the originals.

## LAWS RELATING GENERALLY TO RAILROADS.

### Article VIII, section 1 of the Constitution of the State of New York.

Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases when in the judgment of the Legislature, the objects of the corporation can not be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time.

### CHAP. 346, LAWS OF 1848.

AN ACT to dispose of certain vacant and unoccupied lands belonging to the Onondaga Salt Springs reservation, and for other purposes.

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#### Provisions respecting railroad companies.

§ 7. Whenever it shall be necessary for any railroad company to occupy any of the salt lands belonging to this State, for the use of their road, the same shall be appraised in the manner provided for in the second section of this act, and when they shall pay into the treasury of this State the appraised value, they shall become possessed of the same, to the same extent as by their charter they are authorized to become possessed of lands belonging to individuals.

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(See, also, chap. 148, Laws of 1881).

### CHAP. 276, LAWS OF 1834.

AN ACT to incorporate the Medina and Darien Railroad Company.

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#### Power of Canal Commissioners.

§ 17. The Canal Commissioners are hereby invested with a general and supervisory power over so much of any railroad as passes over any canal or feeder belonging to this State, or approaches within ten rods of such canal or feeder, so far as such power may be necessary to preserve the free and perfect use of the canals or feeders of this State, and necessary for making any repairs, improvements or alterations in the same; and said company shall not construct their railroad over or at any place within ten rods of any canal or feeder belonging to this State, unless said company shall lay before the Commissioners aforesaid, a map, plan and profile, as well of the canal or feeder as of the route designated for their railroad, exhibiting distinctly and accurately the relation of each to the other, at all the places within the limits of ten rods as aforesaid; and shall thereupon obtain the written permission of said Canal Commissioners, with such conditions, instructions and limitations as, in the judgment of said Canal Commissioners, the free and perfect use of any such canal or feeder may require.

\* \* \* \* \*

CHAP. 478, LAWS OF 1855.

AN ACT authorizing a change of the grade of railroads in certain cases.

Grade where crossing a canal.

SECTION 1. Whenever the grade of any railroad shall be changed under the direction of the Canal Commissioners, at any point where such road crosses, or shall cross any canal, or canal feeder, except in the city of Buffalo, it shall be lawful for the directors of the company owning such railroads to alter the grade of such road, on each or either side of the place where such change shall have been so made by order of the Canal Commissioners, for such distance and in such manner as the said directors may deem necessary. And the directors of any railroad company shall also be authorized, at any time, to change the grade of any part of their road except in the city of Buffalo, in such manner as they may deem necessary to avoid accidents, and to facilitate the use of such road; any and all damages arising from such alteration to be appraised in same manner as provided in the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same;" and in the several acts amendatory thereof. (See chap. 62, Laws of 1853, page 430.)

CHAP. 316, LAWS OF 1836.

AN ACT authorizing the construction of railroads upon Indian lands.

Contracts, how made.

SECTION 1. It shall be lawful for any railroad company that has been, or may hereafter be, chartered by the Legislature of this State, to contract with the chiefs of any nation of Indians, over whose lands it may be necessary to construct such railroad, for the right to make such road upon such lands; but no such contract shall vest in such railroad company the fee to such lands, nor the right to occupy the same for any purposes other than what may be necessary for the construction, occupancy and maintenance of such railroad.

Contracts to be ratified by court.

§ 2. No contract made with the chiefs of any nation of Indians, for the purposes mentioned in the first section of this act, shall be valid or effectual until the same shall be ratified by the Court of Common Pleas of the county where such lands may be situated.

CHAP. 135, LAWS OF 1870.

AN ACT for the relief of corporations organized under general laws.

Directors authorized to make and file amended certificates to cure omission or informality; effect thereof.

SECTION 1. The directors of any corporation, organized under any general act for the formation of companies, in whose original certificate of incorporation any informality may exist, by reason of an omission of any matter required to be therein stated, are hereby authorized to make and file an amended certificate or certificates of incorporation, to conform to the general act under which said corporation may be organized; and, upon the making and filing of such amended certificate, the said corporation shall, for all purposes, be deemed and taken to be a corporation from the time of filing such original certificate.

Proviso.

2. Nothing in this act contained shall in any manner affect any suit or proceeding at the time of filing such amended certificate, pending against such corporation, or impair any rights already accrued.



## CHAP. 829, LAWS OF 1872.

## AN ACT in relation to the formation of railroad companies.

When persons who have signed articles, and who shall thereafter become stockholders, shall be and become a corporation.

SECTION 1. Whenever any number of persons, not less than twenty-five, shall make and sign, or shall, before the passage of this act, have made and signed articles of association, containing the statements required by section 1 of an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, except the names and places of residence of thirteen directors of the company, as therein provided; and thereafter thirteen directors have been chosen at a meeting of subscribers to such articles, and the names and places of residence of such directors so chosen have been inserted in such articles so subscribed, and there has been indorsed thereon the affidavit prescribed by the second section of said act, and said articles have been filed and recorded in the office of the Secretary of State; thereupon the persons who have subscribed such articles, and all persons who shall thereafter become stockholders in such company, shall be a corporation by the name specified in such articles of association, and have the same powers and privileges, and be subject to the same liabilities, as though such articles had, when signed, contained the names and places of residence of such directors.

## CHAP. 222, LAWS OF 1847.

## AN ACT in relation to railroad corporations.

Terms of accommodation to be made to connect railroads of different companies.

SECTION 1. Every railroad company whose railroad shall, at or near the same place, connect with, or be intersected by, two or more other railroads which are competing lines for the business to or from such railroad, shall fairly and impartially grant and afford to the proprietors of each of such connecting or intersecting railroads equal terms of accommodations, privileges and facilities in the transportation of cars, passengers, baggage and freight, over and upon their railroads, and over and upon such connecting or intersecting railroads; and shall also grant and afford the proprietors of each of said connecting or intersecting railroads equal facilities in the interchange and use of passenger, baggage, freight and other cars so far as may be required to accommodate the business of each railroad; and also in furnishing passage tickets to passengers who may have come over, or may wish to go over either of such connecting or intersecting railroads; and if the proprietors of either of such connecting or intersecting railroads shall deem themselves aggrieved by the arrangements or conduct of the company with whose railroad their railroad connects in the premises, such proprietors may make application, by petition to the Governor of this State, on giving fourteen days' notice to the companies or proprietors of the railroads with which their railroad connects, for the appointment of three commissioners to inquire into the alleged complaints; and it shall be the duty of said Governor to appoint three disinterested persons as commissioners, who shall summarily examine into the alleged grievances, and shall prescribe such regulations in the premises as will in their judgment secure the enjoyment of equal privileges, accommodations and facilities to the proprietors of the said connecting or intersecting railroads, in the transportation, use and interchange of cars, passengers, baggage and freight, as may be required to accommodate the business of each of said railroads, and in the management and conduct of the several railroads connecting with each other; and the said commissioners shall also determine and fix the terms and conditions upon which such facilities and accommodations shall be afforded to each of said connecting railroads. The award of the commissioners, when approved by the Supreme Court, shall be binding on the parties for

two years, and the court shall have power to compel the performance thereof, by attachment, mandamus or otherwise. And the expenses of the foregoing proceedings shall be paid by such of the parties as shall be determined on by said court.

#### CHAP. 19, LAWS OF 1851.

##### AN ACT in relation to railroad corporations.

**Line common to two companies may be built by one; articles, how amended.**

SECTION 1. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, they may by agreement provide for the construction of so much of said line as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Upon the making of such agreement, the company that is not to construct the part of the line which is common to both, may alter and amend its articles of association so as to terminate its line at the point of intersection and may reduce its capital to a sum not less than ten thousand dollars for each mile of the road proposed to be constructed in such amended articles of association.

**Part of line may be constructed in another State.**

§ 2. Whenever, after due examination, it shall be ascertained by the directors of any railroad company, organized under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed March 26, 1848, or under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, that a part of the line of their railroad proposed to be made between any two points in this State, ought to be located and constructed in an adjoining State, it may be so located and constructed by a vote of two-thirds of all the directors, and the sections of said railroad within this State shall be deemed a connected line, according to the articles of association, and the directors may reduce the capital specified in their articles of association to such amount as may be deemed proper, but not less than the amount required by law for the number of miles of railroad to be actually constructed in this State.

**Appointment of commissioners, when may be applied for.**

§ 3. Any railroad company which prior to the passage of this act, has been duly formed under the act entitled "An act to authorize the formation of railroad corporations," passed March 27, 1848, or "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and which is duly continued in existence, when at least ten thousand dollars for every mile of its railroad, proposed to be constructed in this State, shall be in good faith subscribed to its capital stock, and ten per cent thereof paid in, may apply to the court for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title to lands necessary for its construction, to the same extent and in the same manner as if the whole amount of the capital stock specified in its articles of association was in like manner subscribed. (*Thus amended, Laws of 1853, chap. 53.*)

**Damages for crossing turnpike or plankroad.**

§ 4. In case any railroad shall occupy or cross any turnpike or plankroad, the railroad company shall pay such turnpike or plankroad company all damages the turnpike or plankroad company may sustain by reason of the occupancy or crossing such turnpike or plankroad, the damages to be ascertained and paid in the same manner as is provided by law for the assessment and payment of damages in case of taking private property for the use of railroad companies.

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**Part of line may be constructed in another State.**

**§ 2.** Whenever, after due examination, it shall be ascertained by the directors of any railroad company, organized under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed March 26, 1848, or under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, that a part of the line of their railroad proposed to be made between any two points in this State, ought to be located and constructed in an adjoining State, it may be so located and constructed by a vote of two-thirds of all the directors, and the sections of said railroad within this State shall be deemed a connected line, according to the articles of association, and the directors may reduce the capital specified in their articles of association to such amount as may be deemed proper, but not less than the amount required by law for the number of miles of railroad to be actually constructed in this State.

**Appointment of commissioners, when may be applied for.**

**§ 3.** Any railroad company which prior to the passage of this act, has been duly formed under the act entitled "An act to authorize the formation of railroad corporations," passed March 27, 1848, or "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and which is duly continued in existence, when at least ten thousand dollars for every mile of its railroad, proposed to be constructed in this State, shall be in good faith subscribed to its capital stock, and ten per cent thereof paid in, may apply to the court for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title to lands necessary for its construction, to the same extent and in the same manner as if the whole amount of the capital stock specified in its articles of association was in like manner subscribed. *(Thus amended, Laws of 1853, chap. 53.)*

**Damages for crossing turnpike or plankroad.**

**§ 4.** In case any railroad shall occupy or cross any turnpike or plankroad, the railroad company shall pay such turnpike or plankroad company damages the turnpike or plankroad company may sustain by reason of the occupancy or crossing such turnpike or plankroad, the damages to be ascertained and paid in the same manner as is provided by law for the assessment and payment of damages in case of taking private property for the use of railroad companies.

sidered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballot shall be cast in person or by proxy, and if two-thirds of all the votes of all the stockholders shall be for the adoption of said agreement, then that fact shall be certified thereon by the secretaries of the respective companies, under the seal thereof, and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the Secretary of State, and shall from thence be deemed and be taken to be the agreement and act of consolidation of the said companies; and a copy of the said agreement and act of consolidation, duly certified by the Secretary of State, under his official seal, shall be evidence in all courts and places of the existence of said new corporation, and that the foregoing provisions of this act have been fully observed and complied with. (*Thus amended, Laws of 1890, chap. 94.*)

**Corporations to be taken as one, on filing agreement of consolidation; rates of fare upon New York Central railroad; act not to apply to street railroads.**

§ 3. Upon the making and perfecting such agreement and act of consolidation as hereinbefore provided, and filing the same or a copy thereof in the office of the Secretary of State as aforesaid, the said corporations, parties thereto, shall be deemed and taken to be one corporation by the name provided in said agreement and act, but such act of consolidation shall not release such new corporation from any of the restrictions, disabilities or duties of the several corporations so consolidated. But nothing in this act contained shall allow any rate of fare for way passengers greater than two cents per mile, to be charged or taken over the track or tracks of that railroad, now known as the New York Central Railroad Company, and the rate of fare for way passengers over the track or tracks now operated by the said New York Central Railroad Company shall continue to be two cents per mile and no more, wherever it is now restricted to that rate of fare. But nothing herein contained shall apply to street railroads.

**New corporation succeeds to rights, property, claims, franchises, etc., of roads consolidated.**

§ 4. Upon the consummation of said act of consolidation as aforesaid, all and singular the rights, privileges, exemptions and franchises of each of said corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of said corporations, as well as all stock subscriptions and other things in action belonging to either of said corporations, shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to the said agreement and act, and the title to all real estate, taken by deed or otherwise, under the laws of this State, vested in either of such corporations, parties to said agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act, or any thing done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation.

**Rights of creditors, and liens not to be impaired; proviso as to existing suits, actions, etc.; suits, how brought against new corporation.**

§ 5. The rights of all creditors of, and all liens upon, the property of either of said corporations, parties to said agreement and act, shall be preserved unimpaired, and the respective corporations shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by either of said corporations, except mortgages, shall nevertheless attach to such new corporation, and be enforced against it and its property to the same extent as if said debts or liabilities had been incurred or contracted by it. No suit, action or other proceeding now pending before any court or tribunal, in which either of said railroad companies is a party, shall be deemed to have abated or been discontinued by the

agreement and act of consolidation as aforesaid, but the same may be conducted in the name of the existing corporations to final judgment, or such new corporation may be, by order of the court, on motion, substituted as a party. Suits may be brought and maintained against such new corporation in the courts of this State, for all causes of action, in the same manner as against other railroad corporations therein.

**Assessment of real and personal property of new corporation in this State.**

§ 6. The real estate of such new corporation, situate within this State, shall be assessed and taxed in the several towns and cities where the same shall be situated in like manner as the real estate of other railroad corporations is, or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation shall in like manner be assessed and taxed in this State, as the number of miles of its railroad situate in this State bears to the number of miles of its railroad situate in the other State or States.

**Proviso as to rate of passenger fare; act not to apply to street railroads; contract of Buffalo and State Line railroad not to be impaired.**

§ 7. Nothing in this act contained shall be so construed as to allow such consolidated company to charge a higher rate of fare per passenger per mile upon any part or portion of such consolidated line than is now allowed by law to be charged by each existing company respectively, nor shall this act apply to street railroads; and nothing in this act contained shall be so construed as to affect or impair in any way the validity of any contract now existing between the Buffalo and State Line Railroad Company and the New York and Erie Railroad Company.

**General Railroad Act; how far to apply.**

§ 8. All the provisions of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and of the several acts amendatory thereof or in addition thereto, shall be applicable to the new corporation so to be formed as aforesaid, so far as the same are now applicable to the railroad companies of this State which may be consolidated with any other company or companies by virtue of this act.

**Parallel and competing lines not authorized to consolidate.**

§ 9. No companies or corporations of this State whose railroads run on parallel or competing lines shall be authorized by this act to merge or consolidate.

**CHAP. 256, LAWS OF 1875.**

**AN ACT relating to the consolidation of certain railroad companies.**

**Consolidation with Pennsylvania companies.**

SECTION 1. Any railroad company organized under the laws of this State may merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any railroad company or companies organized under the laws of the State of Pennsylvania, whenever the two or more railroads of the companies or corporations so to be consolidated shall or may form a continuous line of railroad.

**Consolidation, how effected.**

§ 2. Such consolidation shall be effected in the manner provided for by an act entitled "An act to authorize the consolidation of certain railroad companies," passed May 20, 1869, and also subject to the laws of the State of Pennsylvania.

**Stock of municipal corporation, how represented.**

§ 3. At any meeting of the stockholders of any such company or corporation to consider any agreement or proposition to consolidate, the commissioners or other officer of any municipal corporation holding or having

charge of any of the capital stock of such railroad company or corporation shall represent such municipal corporation, and may act and vote in person or by proxy on all matters relating to such consolidation in the same manner as individual stockholders.

#### CHAP. 155, LAWS OF 1880.

**AN ACT to facilitate the carrying out of plans and agreements for the reorganization of railroads.**

**When stock insufficient, how company may increase same; State Engineer and Surveyor to approve.**

**SECTION 1.** Whenever the maximum amount of capital stock mentioned in the certificate of incorporation of any railroad or railway company on file in the office of the Secretary of State shall be insufficient to carry out any plan or agreement of reorganization set forth in such certificate of incorporation, it shall be lawful for the directors, or a majority of the directors, of said company to file an additional certificate with the Secretary of State, which shall set forth the fact of such insufficiency, and the additional amount of capital stock required to carry out such plan or agreement of reorganization, and thereupon, with the approval of the State Engineer and Surveyor, said company shall be authorized to issue such capital stock as fully as if the same had been mentioned or set forth in the original certificate of incorporation. Said additional certificate shall be filed in the office of the Secretary of State within two months after the passage of this act.

#### CHAP. 215, LAWS OF 1846.

**AN ACT to incorporate the New York and Connecticut Railroad Company.**

**Every railroad company required to contract for carrying the United States mail; penalty.**

(Sections 1 to 16, both inclusive, relate to the New York and Connecticut Railroad Company.)

**§ 17.** Every railroad company, upon being thereto required by the Postmaster-General of the United States, shall enter into a contract with the United States, in the usual form, and with the usual conditions of such contracts, for transporting the mails of the United States upon its railroad for such compensation as the said board shall deem reasonable, not exceeding that provided by an act of Congress entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privileges, and for the prevention of frauds on the revenues of the post-office department," approved March 3, 1845; and every railroad company that shall neglect or refuse to enter into such contract, upon being so required, shall forfeit and pay the people of this State one hundred dollars for every day it shall so neglect or refuse.

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#### CHAP. 270, LAWS OF 1847.

**AN ACT relating to the transportation of freight on certain railroads.**

(Sections 1 and 2 are of a local nature, and are, therefore, omitted; sections 1 to 7, both inclusive, relate to tolls on railroads abolished by chapter 497, Laws of 1871.)

**Saving clause.**

**§ 8.** No provision of the preceding sections of this act shall be deemed in any way to affect the ordinary baggage of passengers, provided the same shall not exceed in weight one hundred pounds.

**Rights of railroad companies.**

**§ 9.** Any railroad company receiving freight for transportation shall be entitled to the same rights and be subject to the same liabilities as a

mon carriers. Whenever two or more railroads are connected together, any company owning either of said roads receiving freight to be transported to any place on the line of either of the said roads so connected shall be liable as common carriers for the delivery of such freight at such place. In case any such company shall become liable to pay any sum by reason of the neglect or misconduct of any other company or companies, the company paying such sum may collect the same of the company or companies by reason of whose neglect or misconduct it became so liable.

#### CHAP. 272, LAWS OF 1847.

**AN ACT** to authorize railroad companies to lay down upon their roads the heavy iron rail, to alter the line of their road, and to acquire the title to lands which have failed.

(Sections 1 and 2 are now obsolete, and are therefore omitted).

#### **Provision to enable companies to acquire valid title to land.**

§ 3. In any case where a railroad shall not have acquired a valid and sufficient title to any land upon which they may have constructed their tracks, or where the title to any such lands has been or shall hereafter be rendered invalid by reason of any mortgage, judgment or other lien affecting the same, then such company in either case is authorized to obtain and acquire title to the said land by purchase of the persons, bodies corporate or politic, owning the same, or having an interest therein, if such purchase can be affected by agreement between the owners thereof and such company; but if not, such company shall have the power to cause compensation to be made therefor, and for that purpose they shall present a petition to a court of record in the county in which such land may lie, setting forth the failure of such title, and the manner in which such failure occurred, and the name and residence of the owner or claimants, and praying for the drawing of a jury to determine the compensation to be made therefor. The said court of record shall thereupon direct notice to be given, in writing, to the owners or claimants of such lands, of the time and place of the drawing of such jury, which drawing shall be in the county in which such lands are situated, and upon proof of the service of such notice and hearing, the parties who may attend such court of record shall cause such jury to be drawn in such manner and at such place as it shall direct; said court shall cause the said jury to be sworn, and shall prescribe the time and place of the meeting of said jury, and the notices to be given to the owners or claimants of the proceedings before said jury. The said jury shall view the premises for which compensation is to be made, and shall, without fear, favor or partiality, determine the compensation to be made for said land, the title to which shall have become invalid or insufficient as aforesaid, and may hear and examine witnesses on oath in relation to the same. The said jury shall make an inquisition of their appraisement or assessment, and shall cause the same to be filed in the office of the clerk of the county in which such land is situated. Upon proof to the court, within thirty days after the filing of the inquisition of the jury, of payment to the owner or claimant, or of depositing to his or their credit in such bank as the said court shall direct, of the amount of such appraisement, and of all the costs and expenses attending it, including reasonable counsel fees (to be taxed and certified by said court), the said court shall make an order describing the land and reciting the assessment or appraisement thereof; and the mode of making it, which order shall be recorded in the office of the clerk of the county in which the land is situated, in like manner as if the same were a deed of conveyance, and such railroad company or corporation shall thereupon become possessed of such land during the continuance of the corporation, and may use the same for the purposes of such corporation. This provision shall not be construed to change or impair the duties or obligations of such corporation in regard to fencing said land or making and maintaining crossing places over said road, as prescribed in their charter; but nothing herein contained shall be construed to impair or affect the right of any individual



to recover the costs and expenses of any legal proceedings commenced prior to the passage of this act, or to recover such sum for the use of any land occupied by such corporation as he or she is entitled to by law.

This section so far as same relates to procedure to perfect title to real estate superseded by chap. 95, Laws of 1890, *ante*.  
(Section 4, as to change of line, and section 5, as to weight of rails, etc., omitted as unimportant.)

**Checks to be furnished and attached to each parcel of baggage; when baggage to be given to owner.**

§ 6. It shall be the duty of every railroad company hereafter to furnish and attach checks to each separate parcel of baggage which they, by their agents or officers, receive from any person for transportation as ordinary or extraordinary baggage, in their baggage cars accompanying their passenger trains, and they shall also furnish to such a person a duplicate check or checks, having upon it or them a corresponding number to that attached to each parcel of baggage; said checks and duplicates shall be made of some proper metallic substance of convenient size and form, plainly stamped with numbers, and each check furnished with a convenient strap or other appendage for attaching to baggage, and accompanying it a duplicate to be delivered to the person delivering or owning such baggage, and whenever the owner of said baggage or other person shall at the place where the cars usually stop, to which said baggage was to be transported, or at any other regular stopping place, present said duplicate check or checks to the officer or agent of the railroad, or any railroad over any portion of which said baggage was transported, they shall deliver it up to the person so offering the duplicate check or checks without unnecessary delay; and a neglect or refusal on the part of any railroad company, its officers or agents, to furnish and attach to any person's ordinary traveling baggage or extraordinary baggage, if conveyed by their passenger train, a suitable check or checks, and to furnish to such person proper duplicate or duplicates, shall forfeit and pay to such person or owner, for every such refusal or neglect, the sum of \$10, to be recovered in an action for debt.

(Chapter 404, Laws of 1847, being an act to enable railroad companies to alter their routes and acquire title to land, is omitted as being generally obsolete.)

(Chapter 405, Laws of 1847, being an act to authorize certain railroad companies to issue stock or to borrow money to lay a second track, is omitted as being generally obsolete.)

#### CHAP. 573, LAWS OF 1868.

**AN ACT** to afford the same facilities to passengers or property transported by steamboat on the Hudson river as is afforded by railroads.

**Steamboats authorized to furnish tickets.**

SECTION 1. The proprietors of any steamboat, or line of steamboats, navigating the Hudson river are hereby authorized and empowered to furnish tickets upon being paid therefor, for the transportation of passengers from any station on the line of any railroad terminating at the city of Albany or Troy, for the conveyance of such passengers from the city of Albany or Troy to the city of New York on their said steamboats. On such tickets being furnished to any such railroad company it shall be their duty to require their ticket agent at any station on the line of their road, to sell such tickets, and to any passenger who shall make application therefor, at a price which shall be equal to the amount of fare charged upon such road to the city of Albany or Troy, with the addition of such price as shall be fixed by the proprietor of such steamboat for the transportation of such passenger from Albany or Troy to New York.

**Baggage checks.**

§ 2. The proprietors of said steamboat or line of steamboats, are also authorized and empowered to furnish baggage checks for the transportation of any passenger's baggage through to the city of New York by the

way of their said steamboats, and on such checks being furnished to the baggage-master, at any station on the line of said railroads, it shall be his duty to check baggage on the application of any passenger through to the city of New York, which baggage, on its arrival in the city of Albany or Troy, shall be delivered up to the authorized agent of any steamboat, or line of steamboats, to be transported from the railroad to the steamboat on which such passenger contemplates going, without the check being removed from such baggage. And said baggage shall be transported from railroad station to steamboat landings, and from steamboat landings to railroad station by said steamboat owners, free of charge.

#### **Railroads to furnish tickets.**

§ 3. It is hereby made the duty of every railroad company which terminates at the city of Albany or Troy, on application being made therefor by the proprietor of any steamboat, or line of steamboats, navigating the Hudson river, to furnish them with tickets for the transportation of passengers from the city of Albany or Troy to any point on the line of their respective roads, to be sold by such steamboat proprietors in their respective offices, and to receive and transport the baggage of any passenger which shall be checked through to any point beyond the city of Albany or Troy; such tickets to be sold and paid for to the railroad or steamboat company which shall furnish the same at the price charged by such company for the conveyance of such passenger to the place which such ticket purports to carry him. The object and intent of this act being to compel railroad companies to furnish the same facilities to passengers going to or from the city of New York by boat as is afforded those who go by the railroad.

#### **Transfer of freight.**

§ 4. If any freight shall be delivered at any station on the line of any railroad which terminates in the city of Albany or Troy for transportation to the city of New York, which is marked to go to New York via boat or any particular line of boats, it shall be the duty of the railroad company to whose agent such freight shall be delivered to receive the same and transport it with all convenient speed to the city of Albany, and on its arrival there the company over whose road the same has been transported shall forthwith cause to be notified the agent of the steamboat line by which it is directed to be sent, and shall deliver the same to such agent with the bill of charges thereon due such railroad company, for the payment of which charges the proprietor or proprietors of such steamboat line shall be responsible. But the railroad company transporting such freight shall not charge for its transportation over its road any greater sum than they charge for carrying the same kind of freight the same distance over their road if the same were transported from Albany or Troy to New York by railroad, and any freight delivered by the authorized agent of any steamboat or steamboat company for transportation over any railroad which shall have been brought from New York by boat shall be transported by such railroad company to its place of destination for the same price as it would be if brought from New York by railroad.

#### **Penalty.**

§ 5. Any railroad company in this State, whose agent or servants shall neglect or refuse to sell tickets or furnish a check, as is provided for in this act, when the same shall have been furnished them, shall be liable to the same penalty as is provided for in section 37 of the act passed April second, 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and no fare or toll shall be collected or received from any passenger whose application for such ticket or check shall have been refused for riding over the road of said company, and in addition thereto the said railroad corporation shall be liable to a penalty of \$250, to be recovered in the name of the proprietor or proprietors of any steamboat line navigating the Hudson river in any court of competent jurisdiction for each day they shall neglect or refuse to comply with the provisions of this act, unless such neglect or refusal is caused by a failure on the part of such steamboat proprietor or proprietors to furnish tickets and checks as herein provided for.

**Limitation.**

§ 6. The provisions of this act, so far as relates to the sale of tickets and furnishing of checks, shall not apply to either the Hudson River or New York and Harlem Railroad Companies.

**CHAP. 364, LAWS OF 1882.**

**AN ACT** to regulate the interchange of freight and passengers between the Central Vermont railroad and the Ogdensburg and Lake Champlain railroad at Rouse's Point.

**Freight to be exchanged in same cars in which same is billed for transportation.**

SECTION 1. All freight billed or consigned from points in this State or from points on connecting railways to points reached by the Central Vermont railroad, and lines leased and managed by said Central Vermont railroad, and Ogdensburg and Lake Champlain railroad and their connections, shall be exchanged in the same cars in which said freight is billed for transportation to its destination, and no discrimination shall be made by either of the companies named in this act, on account of said cars belonging to different corporations or carrying through all rail or other freight. Provided said cars shall be in the condition required under the rules and regulations usual and in force among connecting railroads.

**Cars offered by one company to another to be taken in the usual manner.**

§ 2. All passenger, sleeping, baggage or other cars offered by one company to the other shall be taken in the same manner as is usual in the interchange of through passenger cars by connecting railroads.

**No additional charge to be made.**

§ 3. No additional charge shall be made by reason of one company taking from the other for transportation to destination any cars, freight or passengers under the provisions of this act.

**Penalty for violation of this act.**

§ 4. Either of the companies named in this act violating the provisions of the same shall forfeit to the other as liquidated damages for each case of refusal or neglect to comply with the terms of this act the sum of \$500.

**CHAP. 282, LAWS OF 1854.**

**AN ACT** to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

(Sections 1 to 3, inclusive, amend General Railroad Act.)

**Acquiring real estate, not to apply to certain real estate in Buffalo.**

§ 4. In case any railroad company, the line or route of whose road has been surveyed and designated, and the certificate thereof duly filed as required by law, is unable to agree for the purchase of any real estate required for its roadway or other purposes, the said corporation shall have the right to acquire title to the same by the special proceedings prescribed in the act hereby amended; and all real estate acquired by any railroad corporation under and pursuant to the provisions

of this act, for the objects and purposes herein expressed, shall be deemed to be acquired for public use. But this section shall not be so construed as to apply to any real estate in the city of Buffalo, situated between Main and Michigan streets, except that lying between Exchange street and Buffalo river. (*Thus amended, Laws of 1882, chap. 82.*)

Provisions of this section so far as same relate to method of procedure in acquiring title to real estate superseded by chap. 26, Laws of 1890.

**Courts empowered to carry proceedings into effect.**

§ 5. In all cases of appraisal under this act, and the act hereby amended, where the mode or manner of conducting all or any of the proceedings to the appraisal, and the proceedings consequent thereon, are not expressly provided for by the statute, the courts before whom such proceedings may be pending shall have the power to make all the necessary orders, and give the proper directions to carry into effect the object and intent of this and the aforesaid act; and the practice in such cases shall conform, as near as may be, to the ordinary practice in such courts.

Provisions of this section so far as same relate to method of procedure in acquiring title to real estate superseded by chap. 26, Laws of 1890.

**Appraisal not affected by transfer of property.**

§ 6. When any proceedings of appraisal shall have been commenced, no change or ownership, by voluntary conveyance or transfer of the real estate, or any interest therein, or of the subject-matter of the appraisal, shall in any manner affect such proceedings, but the same may be carried on and perfected as if no such conveyance or transfer had been made or attempted to be made.

Provisions of this section so far as same relate to method of procedure in acquiring title to real estate superseded by chap. 26, Laws of 1890.

**Penalties.**

§ 7. All the penalties hereinbefore mentioned may be sued for in the name of the people of the State of New York, by the district attorney of the county wherein the same shall accrue, within ten days thereafter; and in case such district attorney shall omit or neglect to sue for such fine or fines within the time aforesaid, then it may and shall be lawful for any person aggrieved to sue therefor in the name of the overseers of the poor of the town wherein any such fine or fines shall have accrued, which, when recovered, shall be paid to the said overseers of the poor, for the benefit of the poor of said town. And in case such person shall fail to make out and maintain any such action, it shall be the duty of the court before whom any such action shall be had to enter a judgment against the complainant for the costs of said action. (*As changed by provisions of chap. 593, Laws of 1896. See § 421, Penal Code, p. 493.*)

**Fencing road; cattle-guards.**

§ 8. Every railroad corporation, whose line of road is open for use, shall within three months after the passage of this act, and every railroad company formed or to be formed, but whose lines are not now open for use, shall, before the lines of such railroad are opened, erect and thereafter maintain fences on the sides of their roads, of the height and strength of a division fence, as required by law, with opening or gates, or bars therein at the farm crossings of such railroad, for the use of the proprietors of the lands adjoining such railroads, and shall also construct, where the same has not already been done, and hereafter maintain, cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from getting on to such railroad. And so long as such fences and cattle-guards shall not be made, and when not in good repair, such railroad corporation and its agents shall be liable for damages which shall be done by the agents or engines of any such corporation to any cattle, horses, sheep or hogs thereon, and when such fences and guards shall have been duly made and shall be kept in good repair, such railroad corporation shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence, within the provisions of this sec-

act to which this is supplementary, they shall become a body corporate and politic, according to the provisions of said act; *Provided*, That the directors of any such company may be limited to any number not less than five, to be specified in the articles of association.

**By what name designated.**

§ 2. Any such company may style itself by the name of the inventor or patentee of the particular method of propulsion used, together with such local designation as the associates may deem desirable, and shall by such name set forth in their articles of association, have and enjoy all the powers and privileges and be subject to the liabilities mentioned in the aforesaid act, passed April 2, 1850, so far as the same are comprised in the first twenty-six sections and the twenty-eighth section thereof.

**Fare.**

§ 3. (See chap. 422, Laws 1884, below.)

**When company may operate roads in other States and Countries.**

§ 4. It shall be lawful for any company formed under this act to construct and operate and maintain a road or roads in any other State or country in which the same does not conflict with the laws of such State or country; provided the assent of inventors or patentees are first obtained in the same manner and extent as would be necessary within the United States.

**Extension of corporate existence, how effected; firms, certified copy of certificate evidence.**

§ 5. The continuance of any railroad corporation now existing, or hereafter to be formed under the laws of this State, may be extended beyond the time named for that purpose in its act or acts of incorporation, or in the articles of association of such corporation, by the filing in the office of the Secretary of State a certificate of consent to such extension signed by the holders of two-thirds in amount of the stock held by the stockholders of such corporation; and in every case where such consent has been or shall be so filed, the term of existence of such corporation is hereby extended and declared to be extended for the period designated in such certificate, and each such corporation shall, during the period named in such certificate, possess and enjoy all the rights, privileges and franchises enjoyed or exercised by such corporation at the time such certificate was or shall be so filed. Each such certificate shall be proved or acknowledged by the individuals signing the same before some officer authorized by law to take acknowledgments of deeds; and whenever such stock shall be owned or held by firms or copartnerships, the execution of such certificate shall be acknowledged by one or more of such copartners; and it shall be the duty of the Secretary of State to record such certificate in the book kept in his office for the record of articles of association of railroad companies. A copy of such certificate and of the acknowledgment thereof, certified by the Secretary of State, shall be presumptive evidence of the truth of the facts therein stated. (*Thus amended, Laws 1874, chap. 240.*)

**CHAP. 422, LAWS OF 1884.**

**AN ACT** to further amend chapter 697 of the Laws of 1866, entitled "An act supplementary to the act entitled 'An act to authorize the formation of railroad corporations, and to regulate the same.'"

**SECTION 1.** Section three of chapter six hundred and ninety-seventh of the Laws of eighteen hundred and sixty-six, entitled "An act supplementary to the act entitled 'An act to authorize the formation of railroad corporations, and to regulate the same,'" passed April second, eighteen hundred and fifty, is hereby amended so as to read as follows:

**Fare, rate of.**

§ 3. Companies formed under the provisions of this supplementary act may fix and collect rates of fare on their respective roads, not exceeding five cents for each mile or any fraction of a mile, for each passenger, and with the right to a minimum fare of ten cents; except when such railroad does not exceed two miles in length, and rises or overcomes elevations not less than five hundred feet to the mile, in which case it shall be lawful for such companies to fix and collect rates of fare on their respective roads not more than five cents for each one hundred feet of elevation so overcome for each passenger.

**To what roads applicable.**

§ 2. The provisions of this act shall apply to railways not exceeding four miles in length and overcoming elevations not less than five hundred feet to the mile, where the motive power is locomotives furnished with cogs working into cogs on the railway.

**CHAP. 536, LAWS OF 1887.****AN ACT in relation to railroad corporations.****Mountain railroads, rate of fare on.**

SECTION 1. Any railroad corporation now or hereafter organized under the laws of this State and which shall hereafter construct its road, may, where its railroad overcomes an elevation of more than one thousand feet within a distance of two miles, charge and receive for each passenger transported one way not more than seven cents for each one hundred feet of elevation; where its railroad overcomes an elevation exceeding three hundred feet to a mile, and is operated by other power than locomotive engines, it may charge and receive for each passenger transported one way at the rate of five cents for each one hundred feet of elevation; where its railroad overcomes an elevation of over two hundred feet to the mile, for at least two consecutive miles, and does not exceed twenty miles in length, it may charge and receive for each passenger transported one way at the rate of ten cents per mile.

**Motive power.**

§ 2. Any such railroad company whose railroad overcomes either of the elevations described in the first section may use any motive power or powers.

**Limitation of act.**

§ 3. This act shall not be of force within the limits of any incorporated village or city in this State.

**CHAP. 560, LAWS OF 1871.**

**AN ACT to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.**

(Section 1 amends General Railroad Act of 1850.)

**Change of terminus of intersecting roads; consent of stockholders requisite.**

§ 2. Whenever any railroad company shall have located its road so as to terminate at any railroad previously constructed or located, whereby communication might be had with any incorporated city of this State, and any other railroad company shall subsequently locate its road so as to intersect the road of said first-mentioned company, and thereby, by itself or its connections, afford communication with such city, then and in such case said first-mentioned company may alter and amend its articles of association so as to have its road terminate at the point of intersection

with said road so subsequently located, provided the consent of the stockholders representing or holding two-thirds of the stock of said company shall have been first obtained thereto.

**Maps, surveys, etc., when to be filed or recorded in register's office; transfer and refiling authorized.**

§ 3. Whenever in said act any map, survey, profile, reports, certificate or other paper is directed to be filed or recorded in the office of the county clerk, the same shall be filed or recorded in the office of the register of the county, provided there be a register's office in said county, and all maps, profiles, surveys, reports, certificates or other papers which have, pursuant to the provisions of said act, been heretofore filed or recorded in the office of the clerk of any county in which there is a register, shall be, within thirty days after the passage of this act, transferred to the office of such register, and shall be by him refilled or recorded as of the date of the original filing or record.

(§ 4 also amends the General Railroad Act of 1850.)

**Narrow-gauge roads; when articles may be filed; contents of articles; amount of capital.**

§ 5. Corporations may be formed under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, for the purpose of constructing and operating railroads for public use in transporting persons and property, of the gauge of three feet and six inches or less, but not less than thirty inches within the rails; whenever capital stock of said corporation to the amount of \$1,000 for every mile of such railroad proposed to be constructed and operated has been in good faith subscribed, and whenever \$1,000 or more for every mile of such railroad proposed to be constructed shall be in like manner subscribed, and ten per cent thereon in good faith actually paid in cash to the directors named in the articles of association, and an affidavit made by at least three of said directors and indorsed on or annexed to said articles that the amount of stock hereby required has been so subscribed as aforesaid, and ten per cent thereon paid as aforesaid, and that it is intended in good faith to construct and operate such railroad, then said articles with such affidavit may be filed and recorded in the office of the Secretary of State, provided said articles contain all the other facts required by law to be stated in articles of association made for organizing railroad corporations under said act, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, except the amount of the capital stock of the company stated in said articles shall not be less than \$3,000 for every mile of road constructed, or proposed to be constructed, and all of the provisions of said last-mentioned act shall apply to corporations formed for the construction and operating of railroads of the gauge hereinabove mentioned, except as herein provided, or otherwise provided by law. (*Thus amended, Laws of 1879, chap. 293, subd. now § 5 of chap. 560 of Laws of 1850.*)

**Right of way, how acquired; weight of rails; fare proviso; weight of engine.**

§ 6. Any railroad company, duly organized according to law, when the gauge of its proposed railroad shall be three feet and six inches or less, but not less than thirty inches within the rail, may whenever \$2,000 for every mile of road to be constructed has been, in good faith, subscribed and ten per cent thereon paid, in good faith, in cash, apply to the Supreme Court, in the manner provided by law, for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title of lands necessary for the construction and maintenance and operating of said railroad to the same extent and in the same manner as if the whole amount of the capital stock, specified in its articles of association, was in like manner subscribed and ten per cent thereon in like manner paid in cash, and may lay upon such road iron of a weight not less than twenty pounds to the lineal yard; such railroad company may charge and receive, when its road is not more than twenty-five miles in length, not exceeding five cents per mile; when its road is more than twenty-five and not more

than forty miles in length, not exceeding four cents per mile; and when the road is more than forty miles in length, not exceeding three cents per mile for each passenger and his ordinary baggage transported on said road, providing that nothing relating to fares in this section shall apply to railroad companies now incorporated, or to any railroad, now in operation, or to any railroad or part thereof located, or to be located, in the county of Kings, county of New York, or within the limits of an incorporated city. And it is further provided, that in case the weight of rail used shall not exceed twenty-five pounds per lineal yard, such railroad company shall not use an engine exceeding eighteen tons weight, or run at a greater speed than fifteen miles per hour. (*Thus amended, Laws 1883, chap. 384.*)

(As to Niagara Falls and Whirlpool Ry. Co., see Laws of 1886, chap. 455.)  
(As to Châteaugay R. R. Co., see Laws of 1887, chap. 448.)

**Existing corporations may construct narrow-gauge road.**

§ 7. Any railroad corporation now duly organized and legally kept in existence, which has not constructed its railroad, may construct a railroad of the gauge hereinbefore mentioned, and may acquire title to lands necessary for the construction, maintenance and operating of such railroad, on complying with the provisions of this act, and of all other provisions of law not inconsistent herewith.

#### CHAP. 470, LAWS OF 1881.

**AN ACT** in relation to rates of fare upon certain surface steam railroads.

**Rate of fare.**

SECTION 1. Any surface steam railroad company created by the laws of this State, whose main line does not exceed fifteen miles in length, and does not enter or traverse the limits of any incorporated city, may collect and receive fare at the rate of five cents each from any and all passengers traveling upon its road a distance of one mile or less, but nothing herein contained shall be deemed to authorize such railroad company to collect or receive fare from passengers traveling upon its road or any connecting line a distance of more than one mile at a greater rate than is now allowed by law for each mile or fraction thereof traveled by them.

#### CHAP. 386, LAWS OF 1883.

**AN ACT** in relation to fare on short railroads, and having tracks of two gauges and not entering the limits of any incorporated city.

**Rate of fare.**

SECTION 1. Any railroad corporation now duly organized and having a railroad of the ordinary gauge, or the lessee of any such corporation which may by the laying down of a third rail so as also to create a track of the gauge of three feet and six inches or less, but not less than thirty inches between the rails, shall for the purpose of asking and receiving fare for the transportation of passengers over the said narrow-gauge track, be deemed a railroad of the gauge of three feet and six inches or less, not less than thirty inches between the rails, when the said narrow-gauge does not enter or traverse the limits of any incorporated city and said road does not exceed six miles in length, including any connecting railroad of the same gauge.

#### CHAP. 38, LAWS OF 1889.

**AN ACT** to regulate the payment of fares upon railroads.

It is hereby enacted that fare may be exacted when no ticket is purchased; rebate ticket to be issued therefor.

SECTION 1. It shall be lawful for any company owning or operating a steam railroad in this State, to demand and collect an excess charge of ten cents over the regular or established rate of fare, from any passenger who pays fare in the car in which he or she may have taken passage, except where such passage is wholly within the limits of any incorporated city in this State, provided, however, that it shall be the duty of such company to give to any passenger paying such excess, a receipt or other evidence of such



payment, and which shall legibly state that it entitles the holder thereof to have such excess charge refunded, upon the delivery of the same at any ticket office of said company, upon the line of their railroad, and said company shall refund the same upon demand; and provided further that this act shall not apply to any passenger taking passage from a station or stopping place when tickets cannot be purchased during half an hour previous to the schedule time for the departure of said train on which such passenger takes passage.

#### CHAP. 775, LAWS OF 1867.

**AN ACT** to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

**When corporate powers shall cease.**

**SECTION 1.** If any corporation formed under an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, shall not, within five years after its articles of association are filed and recorded in the office of the Secretary of State, begin the construction of its road, and expend thereon ten per cent on the amount of its capital, or shall not finish its road and put it in operation in ten years from the time of filing its articles of association, as aforesaid, its corporate existence and powers shall cease.

#### CHAP. 598, LAWS OF 1875.

**AN ACT** in relation to railroad corporations.

**Extending time for construction.**

**SECTION 1.** Any existing railroad company heretofore organized or incorporated under the laws of this State, except such as may have been organized for the purpose of constructing or operating a railroad in the city of New York, which may be unable from any cause to construct its railroad within the time specified by its charter or articles of association, shall hereby have the time for the completion of the railroad it was authorized to construct extended for a further term of two years beyond the time heretofore limited; and failure to construct its railroad within the time heretofore limited shall not cause a forfeiture of its corporate powers; but nothing herein contained shall have the effect to revive any corporation whose corporate power has been forfeited from any cause. (*Thus amended, Laws of 1879, chap. 350.*)

#### CHAP. 405, LAWS OF 1882.

**AN ACT** in relation to railroad corporations.

**Time extended in which to complete road.**

**SECTION 1.** Any railroad company heretofore organized or incorporated under the laws of this State, except such as may have been organized for the purpose of constructing or operating a railroad in the city of New York, which may be unable from any cause to construct its railroad within the time specified in its charter or articles of association, or heretofore limited by law, shall hereby have the time for the completion of the railroad it was authorized to construct extended for a further term of two years beyond the time heretofore limited; and failure to expend ten per centum on the amount of its capital, or to have completed its road within the time heretofore limited, shall not be deemed a cause of forfeiture of its corporate powers; but nothing herein contained shall have the effect to revive any corporation whose corporate power shall have ceased prior to January first, eighteen hundred and eighty-two, who shall have been judicially ascertained and determined to have been forfeited from any cause.

**Not to apply to certain corporations.**

**§ 2.** The provisions of this act shall not extend or apply to any corporation or company, or to the assignee or successor of any corporation or company, organized under chapter three hundred and twenty-six of the laws of eighteen hundred and eighty, entitled "An act relating to the banks and prism of the Genesee Valley canal, and for the sale thereof," or to any

corporation or company that has already commenced the construction of its road. The provisions of this act shall not extend or apply to the New York and Albany Railroad Company.

#### CHAP. 264, LAWS OF 1878.

**AN ACT** to authorize corporations organized under the laws of this State to reduce their capital stock.

**May diminish capital stock ; proviso.**

**SECTION 1.** Any corporation or company organized under general or a special law of the State, and now existing, or which may hereafter be organized under such general or special law, may diminish its capital stock by complying with the provisions of this act, to any amount which may be deemed sufficient and proper for the purposes of the corporation. But nothing in this act shall be so construed as to relieve any holder or owner of stock in such corporation from any personal liability existing prior to such reduction ; provided, that nothing in this act contained shall be construed to in any manner interfere with or affect any law now in existence, authorizing any corporation heretofore organized to reduce its capital stock.

**Notice of meeting to reduce stock ; necessary vote.**

§ 2. Whenever any company shall desire to call a meeting of the stockholders, for the purpose of diminishing the amount of its capital stock, it shall be the duty of the trustees or directors to publish a notice, signed by at least a majority of them, in a newspaper in the county in which the business of the company is carried on, or its principal office is located, if any shall be published therein, at least three successive weeks, and to deposit a written or printed copy thereof in the post-office, addressed to each stockholder, at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting, specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be proposed to diminish the capital ; and a vote of at least two-thirds of all the shares of stock shall be necessary to a diminution of the amount of its capital stock.

**Stock, how reduced ; certificate, when filed ; approval of Comptroller.**

§ 3. If, at the time and place specified in the notice provided for in the preceding section of this act, the stockholders shall appear in person or by proxy, in numbers representing not less than two-thirds of all the shares of stock of the corporation, they shall organize by choosing one of the trustees chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present in person or by proxy, and if, in canvassing the votes, it shall be found that a sufficient number of votes has been given in favor of diminishing the amount of capital, a certificate of the proceedings showing a compliance with the provisions of this act, the amount of capital actually paid in, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be diminished, shall be made, signed and verified by the chairman, and such certificate shall be acknowledged by the chairman and filed in the office of the clerk of the county in which the business of the company shall be carried on, and a duplicate thereof in the office of the Secretary of State, with the approval of the Comptroller indorsed thereon, to the effect that the reduced capital is sufficient for the proper purposes of the company, and is in excess of all debts and liabilities of the company, exclusive of debts secured by trust mortgages, and that the actual market value of the stock of the company prior to the reduction of the capital was less than the par value of the same, and when so filed, the capital stock of such corporation shall be reduced to the amount specified in such certificate, and the amount of capital left in the possession of the company over and above the amount to which the capital shall be so reduced shall be returned to the stockholders pro rata at such times and in such manner as the trustees or directors shall determine.

## CHAP. 225, LAWS OF 1880.

**AN ACT to authorize the exchange of preferred stock for common stock of corporations.**

**Exchange of preferred stock for common, may be authorized by vote of two-thirds of the directors.**

**SECTION 1.** Every corporation organized under the laws of this State which has heretofore issued, or may hereafter issue, both preferred and common stock, forming part of the capital stock of such corporation, is hereby authorized, whenever the directors of such corporation shall, by vote of two-thirds of their number, declare it for the interest of the corporation so to do, and the holder of any such preferred stock may request, in writing, the exchange of the same for the common stock, to exchange the preferred stock of such holder for common stock, and to issue certificates of common stock therefor, share for share, or upon such other valuation as may have been agreed upon in the scheme for organization of such company or the issue of such preferred stock; provided, however, that the total amount of the capital stock of such company shall not be increased thereby.

## CHAP. 218, LAWS OF 1839.

**AN ACT authorizing railroad companies to contract with each other.**

**Companies may contract.**

**SECTION 1.** It shall be lawful hereafter for any railroad corporation to contract with any other railroad corporation for the use of their respective roads, and thereafter to use the same in such manner as may be prescribed in such contract. But nothing in this act contained shall authorize the road of any railroad corporation to be used by any other railroad corporation, in a manner inconsistent with the provisions of the charter of the corporation whose railroad is to be used under such contract.

## CHAP. 302, LAWS OF 1855.

**Lessee of corporation may take, surrender or transfer capital stock of leased road and issue in exchange therefor like amount of its own capital stock at par in certain cases, effect thereof.**

**SECTION 1.** Any railroad corporation created by the laws of this State, or its successors, now being the lessee of the road of any other railroad corporation, may take, surrender, or transfer of the capital stock of the stockholders, or any of them, in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporations taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become *ex-officio* the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of the said capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the Secretary of State, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the said corporation, whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by the said corporation to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the said corporation to whom such surrender or transfer of the

said stock shall have been made, and in the corporate name of such corporation. The rights of any stockholder, not so surrendering or transferring his stock, shall not be in any way affected hereby; nor shall existing liabilities, or the rights of creditors of the corporation whose stock shall have been so surrendered, be in any way affected or impaired by this act.

**Not to apply to Genesee Valley railroad.**

§ 2. This act shall not be construed as applying to or embracing the Rochester and Genesee Valley railroad, nor any part thereof, and said road is hereby expressly excepted from the operation of the same.

#### CHAP. 254, LAWS OF 1867.

##### AN ACT in relation to railroads held under lease.

**Lessees of railroad may acquire stock therein.**

SECTION 1. Any railroad corporation created by the laws of this State, or its successors, being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders, or any of them in the corporation whose road is held under lease, and issue\* in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer, shall thereafter, on a resolution electing so to do, to be entered on their minutes, become *ex-officio* the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of the said capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the Secretary of State, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the said corporation whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by the said corporation, to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the said corporation, to whom such surrender or transfer of the said stock shall have been made, and in the corporate name of such corporation. The rights of any stockholder not so surrendering or transferring his stock shall not be in any way affected hereby, nor shall existing liabilities or the rights of creditors of the corporation, where stock shall have been so surrendered or transferred, be in any way affected or impaired by this act. (*Thus amended, Laws of 1879, chap. 503.*)

#### CHAP. 349, LAWS OF 1880.

##### AN ACT relating to leases of railroads and railroad property within this State.

**Lease of railroads not exceeding ten miles in length.**

SECTION 1. Whenever any railroad, or railroad route not exceeding ten miles in length, and its franchises within this State has been heretofore leased by one railroad company or corporation to any other railroad company or corporation with the assent of a majority in amount of the stockholders of the company owning such leased railroad or railroad route and franchises, it shall be immaterial whether the assent of said stockholders has been obtained at a stockholders' meeting, or has been individually given in writing; and the leases of all such railroads within this State, which have received such assent of a majority in amount of the individual stockholders of the company or corporation owning the leased road, are hereby declared to be as legal and valid as they would have been had such assent been given at a stockholders' meeting regularly called for that

purpose. And any railroad company now engaged in operating any railroad so leased may continue to use and operate the same during the term of the lease, upon complying with the terms, covenants and provisions of such lease; and to that end all such leases are hereby ratified and confirmed.

#### CHAP. 582, LAWS OF 1864.

**AN ACT** to amend an act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

(Section 1 amends subdivision 5 of section 28, General Railroad Act of 1850.)

#### **Lessees of railroad corporations to maintain fences; cattle-guards.**

§ 2. And when the railroad of any railroad corporation shall be leased to any other railroad company, or to any person or persons, such lessee shall maintain fences on the sides of the road so leased, of the height and strength of a division fence, as required by law, with openings, or gates, or bars therein, at the farm crossings of such railroad, for the use of the proprietors of the lands adjoining such railroads, and shall also construct, where the same has not already been done, and hereafter maintain cattle-guards at all road crossings, suitable and sufficient to prevent horses, cattle, sheep and hogs from getting on to such railroad. And so long as such fences and cattle-guards shall not be made, and when not in good repair, such lessees and their agents shall be liable for damages which shall be done by the agents or engineers of any such corporation, to any cattle, horses, sheep or hogs thereon; and when such fences and guards shall have been duly made, and shall be kept in good repair, such lessee shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence, within the provisions of this section; but no lessees of a railroad corporation shall be required to fence the sides of said roads except when such fence is necessary to prevent horses, cattle, sheep and hogs from getting on to the track of the railroad, from the lands adjoining the same.

**Drinking water to be kept in cars; where main route of road does not exceed twenty miles board of directors may consist of seven of its stockholders.**

§ 3. Every railroad company whose line of road shall exceed forty continuous miles in length shall, for the better comfort of passengers, provide in each passenger car a suitable receptacle for water, with a cup or drinking utensil attached upon or near such receptacle, and shall keep the said receptacle while said car is in use constantly supplied with cool water; and any company failing to obey the provision of this section shall, for each offense of omission as aforesaid, forfeit as a penalty the sum of \$25; one-half of said penalty to be paid to the informer, and the remaining one-half to the overseer of the poor of the county in which judgment shall have been recovered, and any railroad company whose main route of road does not exceed twenty miles may have a board of directors to manage its affairs, consisting of seven of its stockholders, to be chosen in the manner provided by law. (*Thus amended by chap. 46, Laws of 1883.*)

(The remaining sections of this act amend the General Railroad Act.)

#### CHAP. 844, LAWS OF 1869.

**AN ACT** to amend an act entitled "An act in relation to railroads held under lease," passed April 3, 1867.

#### **Report to State Engineer.**

SECTION 1. Any railroad corporation which may be the lessee of any other railroad shall, in addition to the powers and duties conferred:

imposed by the act entitled "An act in relation to railroads held under lease," passed April 3, 1867, be required to make to the State Engineer a report of such facts concerning the operation of said leased road or roads as the lessors would otherwise be required to make, and the lessors shall not be required to make such report.

#### CHAP. 502, LAWS OF 1853.

**AN ACT** to authorize stockholders of railroad and plankroad companies to make payments upon mortgages in process of foreclosure against such companies, and thereupon to become interested in said mortgages.

##### **Default in payment of principal and interest of bonds.**

**SECTION 1.** Whenever default shall be made by any railroad or plankroad company in the payment of principal or interest of any bonds of such company, which are secured by a mortgage of the property of such company, it shall be lawful for each and every stockholder of said company, at any time during the process of such foreclosure, to pay to the mortgagees named in such mortgage, for the use and benefit of the holder and holders of such bonds, such a proportion of the sum due and of the sum secured to be paid by the whole of the bonds secured by such mortgage as such stockholder's stock shall bear to the whole stock of said company; and on so paying, such stockholder shall, to the extent of such payment, become and be interested in said mortgage and protected thereby.

##### **Foreclosure of mortgage.**

§ 2. In case of the foreclosure of any mortgage given by any railroad or plankroad company to secure the payment of any bond of such company, any stockholder of such company shall, for the period of six months after the sale under such foreclosure, have the right on paying to the purchaser or purchasers at or under such sale, or to the mortgagees named in such mortgage, for the use and benefit of said purchaser or purchasers, a sum equal to such proportion of the price paid on such sale, and the costs and expenses thereof, as such stockholder's stock in said company shall bear to the whole capital stock of said company; and on so paying, such stockholder shall be entitled to have the same relative amount of stock or interest in said railroad or plankroad company and its road, franchises and other property.

#### CHAP. 444, LAWS OF 1857.

**AN ACT** further to amend the act entitled "An act to authorize the formation of railroad corporations. and to regulate the same," passed April 2, 1850.

##### **Mortgage sales.**

**SECTION 1.** It shall be lawful for any mortgagee of any railroad and the franchise thereof to become the purchaser of the same, at any sale thereof under the mortgage upon foreclosure by advertisement, or under a judgment or decree, or otherwise, and to hold and convey the same, with all the rights and privileges belonging thereto or connected therewith.

##### **Special estates, how acquired.**

§ 2. Whenever there shall be one or more of the estates enumerated in title 1 of title 2 of chapter 1 of the second part of the Revised Statutes, entitled "Of the creation and division of estates," in any land required by any railroad company for the purpose of its incorporation, such company may acquire such estate and land by means of the special proceedings authorized by the act hereby amended. In every such case the railroad company, in addition to the statements now required by said act, shall

set forth and state in its petition the facts in relation to any such estate and the person, persons or class of persons, then in being or not in being who are or may become entitled, in any contingency, to any estate as aforesaid in such land, and may pray that such estate may be acquired and such person may be bound by the said proceedings; and thereupon the court to whom such petition is presented, if there be no attorney appearing in their behalf, shall appoint some competent and disinterested attorney or officer of the court to appear in such proceedings and represent the rights, interests and estate of the person, persons or class of persons as aforesaid in any such land, and to protect the same, on the appraisal and proceedings aforesaid; and it shall be the duty of the court, on or after the confirmation of the report of the appraisal, to ascertain by such report, or by a reference for that purpose, or otherwise in its discretion, the rights, interests and estate of such person, persons or class of persons, in the land so appraised, and in the compensation awarded therefor, and to make an order determining the amount or share of such compensation to which such person, persons or class of persons are, or may become, entitled of account of such estate, as the same shall arise or become vested in them respectively, and to direct, and to provide for the payment, investment or securing thereof, for the benefit of the person, persons or class of persons as aforesaid, who are, or may be in the contingency upon which such estate arises, become entitled thereto; upon the company paying or securing such amount or share, in the manner directed by such order of the court, it shall be deemed to have acquired, and shall be vested with the estate which such person, persons or class of persons have, or may be entitled to in said land, and they shall be barred of and from all right or claim in and to such land. Any railroad corporation in this State may acquire the title in fee, by the special proceedings hereinbefore mentioned, to any land which it may require for roadway and for necessary buildings, depots and freight grounds.

**Sale of unclaimed baggage and freight authorized; notice of sale to be published; money arising therefrom to be deposited with Comptroller; notice of sale must be served on Comptroller.**

§ 3. Every railroad or other transportation company incorporated under the laws of this or any other State, and doing business within this State, which shall have unclaimed freight or baggage not perishable, in its possession for the period of at least one year, may proceed and sell the same at public auction, after giving notice to that effect in the State paper once a week for not less than four weeks, and for a like period in a newspaper other than the State paper published at the place designated for the sale, and also in one published in the city of New York (said notice shall contain as near as practicable, a description of such freight or baggage, the place and time when left, together with the name of the owner of the freight, or person to whom consigned, if the same be known). All moneys arising from the sale of freight or baggage as aforesaid, after deducting therefrom charges and expenses for transportation, storage, advertising, commissions for selling the property, and the amount previously paid for the loss or non-delivery of freight or baggage, shall be deposited by the company making such sale, accompanied with a report thereof, and proofs of advertisement, with the Comptroller, for the benefit of the general fund of the State, and shall be held by him in trust for reclamation by the persons entitled, or who may become entitled, to receive the same. No sale as herein provided shall be valid unless a copy of the notice above specified shall be served upon the Comptroller for at least two weeks prior to the time designated for such sale. (*Thus amended, chap. 444, Laws 1884.*)

**Disposition of unclaimed baggage and perishable freight.**

§ 4. In case such unclaimed freight or baggage shall, in its nature, be perishable, then the same may be sold as soon as it can be at the best terms that can be obtained.

## CHAP. 430, LAWS OF 1874.

**AN ACT** to facilitate the reorganization of railroads sold under mortgage, and providing for the formation of new companies in such cases.

**Purchasers to become a body politic and corporate by making and filing certificate.**

**SECTION 1.** In case the railroad and property connected therewith, and the rights, privileges and franchises of any corporation, except a street railroad company, created under the general railroad law of this State, or existing under any special or general act or acts of the Legislature thereof, shall be sold under or pursuant to the judgment or decree of any court of competent jurisdiction made or given to execute the provisions or enforce the lien of any deed or deeds of trust, or mortgage theretofore executed by any such company, the purchasers of such railroad property and franchises, and such persons as they may associate with themselves, their grantees or assignees, or a majority of them, may become a body politic and corporate, and as such may take, hold and possess the title and property included in said sale, and shall have all the franchises, rights, powers, privileges and immunities which were possessed before such sale by the corporation whose property shall have been sold as aforesaid, by and upon filing in the office of the Secretary of State a certificate, duly executed under their hands and seals, and acknowledged before an officer authorized to take the acknowledgment of deeds, in which certificate the said persons shall describe, by name and reference to the act or acts of the Legislature of this State under which it was organized, the corporation whose property and franchises they shall have acquired as aforesaid, and also the court by authority of which such sale shall have been made, giving the date of the judgment or decree thereof, authorizing or directing the same, together with a brief description of the property sold, and shall also set forth the following particulars:

**Name of corporation.**

1. The name of the new corporation intended to be formed by the filing of such certificate.

**Capital stock.**

2. The maximum amount of its capital stock and the number of shares into which the same is to be divided, specifying how much of the same shall be common, and how much preferred stock, and the classes thereof, and the rights pertaining to each class.

**Number of directors.**

3. The number of directors by whom the affairs of the said new corporation are to be managed, and the names and residences of the persons selected to act as directors for the first year after its organization.

**Plans and agreements; effect of certificate; copy thereof, evidence; certificate to contain whole plan.**

4. Any plan or agreement which may have been entered into pursuant to the second section hereof.

And upon the due execution of such certificate, and the filing of the same in the office of the Secretary of State, the persons executing such certificate, and who shall have acquired the title to the property and franchises sold as aforesaid, their associates, successors and assigns, shall become and be a body politic and corporate, by the name specified in such certificate, and shall become and be vested with, and entitled to exercise and enjoy all the rights, privileges and franchises, which at the time of such sale belonged to or were vested in the corporation which last owned the property so sold, or its receiver, and shall be subject to all the provisions, duties and liabilities imposed by the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and of the acts amendatory thereof, except so far as said pro-



visions, duties and liabilities may be inconsistent herewith, and with the last named rights, privileges or franchises; and a copy of the said certificate, certified by the Secretary of State or his deputy, shall be presumptive evidence of the due formation of the new corporation therein mentioned, provided always that a majority of said persons shall be citizens and residents of this State. In the certificate so to be filed shall be inserted the whole of the plan or agreement in the next section referred to. And such plan, agreement and articles may regulate voting by and on the part of the holders of the preferred and common stock of the said company, and may also allow, provide for and regulate voting at and in said meetings, and also for directors, by and on the part of the holders and owners of any or all of the bonds of the company foreclosed, or of the bonds issued or to be issued and payable by the new company, pursuant to any such plan, agreement or articles; such right of voting by bondholders to be in such manner, for such period or periods, and upon such conditions as said articles may authorize and declare; but such articles shall contain suitable provisions for such bondholders voting by proxy. Said articles shall not be inconsistent with the constitution or laws of this State, and shall be binding upon the company until changed as therein provided for, or until otherwise provided by law. (*Thus amended, Laws of 1876, chap. 446.*)

**When new corporation may issue bonds and stock; when it may compromise, etc., debt of former company; preferences in dividends.**

§ 2. In case the persons organizing, or whose duty it may be to organize the new corporation to be formed as provided in the first section of this act, shall have acquired title to the railroad property and franchises which may have been sold as in said section mentioned, pursuant to any plan or agreement for or in anticipation of the readjustment of the respective interests therein of the mortgage creditors and stockholders of the company owning, or which last owned, such property and franchises at the time of any such sale, and for the representation of such interests of creditors and stockholders in the bonds or stock of the new corporation to be formed, as provided for in said section, the said new corporation shall be authorized and shall have the power to issue its bonds and stock in conformity with the provisions of such plan or agreement; and the said new corporation may, at any time within six months after its organization, compromise, settle or assume the payment of any debt, claim or liability of the former company, upon such terms as may be lawfully approved by a majority of the agents or trustees intrusted with the carrying out of the plan or agreement of reorganization aforesaid; and for the purposes of such plans and of such settlements, the said new corporation may and shall be authorized to establish preferences in respect to the payment of dividends in favor of any portion of its said capital stock, and to divide its said stock into classes; provided, nevertheless, that nothing herein contained shall be held to authorize the issue of capital stock by the said new company to any aggregate amount exceeding the maximum amount of such stock mentioned in the certificate of incorporation.

#### **Sale of property.**

1. And it shall be lawful for the Supreme Court to direct a sale of the whole of the property, rights and franchises covered by the mortgage or mortgages, or deeds of trust foreclosed at any one time and place to be named in the judgment or order, either in the case of the non-payment of interest only, or of both the principal and interest due and unpaid and secured by any mortgage or mortgages or deeds aforesaid.

#### **No interference with receiver by sale or formation of new company.**

2. Neither the said sale nor the formation of such corporation shall interfere with the authority or possession of any receiver of the property; franchises aforesaid, but he shall remain liable to be removed or discharged at such time as the court may deem proper.

#### **Suits against receiver.**

3. No suit or proceeding shall be commenced against said receiver (unless founded on willful misconduct or fraud in his trust), except as shall be commenced before the expiration of sixty days from the

of the discharge of such receiver; but it is further provided, that after the expiration of said sixty days, the corporation that shall own or operate said railroad shall be liable in any action that may be commenced against such company, and founded on any act or omission of such receiver (for which he may not as aforesaid be sued), and to the same extent as said receiver, but for this act, would be or remain liable, or to the same extent that such corporation would be, had it done or omitted the acts complained of against such receiver. (*Thus amended, Laws of 1876 chap. 446.*)

**Stockholder of company has the right to assent to plans of readjustment.**

§ 3. Every stockholder in any company, the franchises and property whereof shall have been sold as aforesaid, shall have the right to assent to the plan of readjustment and reorganization of interests pursuant to which such franchises and property shall have been purchased as aforesaid at any time within six months after the organization of said new company, and by complying with the terms and conditions of such plan become entitled to his *pro rata* benefits therein according to its terms.

**Railroad commissioners of any city, etc., may assent to plan of reorganization; issue of stock in exchange for stock of former company; may assign, etc., stock held by them.**

§ 4. Full power is hereby given to the railroad commissioners, corporate authorities or proper officials of any city, town or village, who may hold stock in any corporation, the property and franchises whereof shall be liable to be sold, as mentioned in the first section of this act, to assent to any plan or agreement of reorganization which provides for the formation of a new company, in conformity with this act, and the issue of stock therein to the proper authorities or officials of said cities, towns or villages, in exchange for the stock of the old or former company by them respectively held at par, subject to the foregoing provisions of this act. And such railroad commissioners, corporate authorities or other proper officials, may assign, transfer or surrender the stock so held by them in the manner required by any such plan, and accept in lieu thereof the stock issued by said new corporation in conformity therewith.

**Provisions affecting extension of railroads: powers of board of railroad commissioners in relation thereto.**

§ 5. Nothing herein contained shall be construed to compel a corporation organized under this act to extend its road beyond the portion thereof constructed at the time said corporation acquired title to such railroad property and franchise, provided the board of railroad commissioners of the State shall certify that in their opinion the public interests under all the circumstances do not require such extension. If said board shall so certify and shall file in their office such certificate (which certificate shall be irreversible by said board) said corporation shall not be deemed to have incurred any obligation so to extend its road and such certificate shall be a bar to any proceedings to compel it to make such extension or to annul its existence for failure so to do, and shall be final and conclusive in all courts and proceedings whatever. Nothing herein contained shall be construed to authorize the abandonment of that portion of a railroad which has been constructed and operated.

(Section 5 added by Laws of 1889, chap. 236. Provisions of this section not applicable to Kings county.)

## CHAP. 505, LAWS OF 1879

**AN ACT** to facilitate the foreclosure of mortgages made by consolidated railroad companies of railroads lying partly within and partly without this State.

**Foreclosure of mortgages made by consolidated railroads lying only partly in the State.**

**SECTION 1.** Whenever a railroad corporation, whose line of road lies partly in this State and partly in another State or States, which corporation shall have been created by the consolidation of a railroad corporation of this State with a railroad corporation or corporations of another State or States, shall have executed a mortgage upon its entire line of railroad, and a sale of the entire line of road under such mortgage shall have been or may hereafter be ordered, adjudged and decreed by a court of competent jurisdiction of the State or States in which the greater part of such line of railroad may be situated, upon the confirmation of such judgment or decree, and of the sale made thereunder, by the Supreme Court of this State in the judicial district in which some part of such line of road is situated, such sale shall operate to pass title to the purchaser of that part of the line of railroad lying in this State, together with its appurtenances and franchises, with the same force and effect as if the judgment or decree under which such sale is had had been made by a court of competent jurisdiction of this State. Such judgment or decree and sale may be so confirmed in any action now pending, or that may hereafter be brought in the said Supreme Court for the foreclosure of such mortgage or in aid of an action for that purpose pending in such other State, if it shall appear that such confirmation is for the interest of the public and of the parties, due and lawful provision being made for and in respect of any liens upon that part of the line of road or other property sold situate in this State, and for such costs, expenses and charges as may appear to be just and lawful. If a receiver of the entire line of such railroad shall have been, or may hereafter be, appointed by such court of competent jurisdiction of the State in which the greater part of the line of railroad is situated, such receiver may perform, within this State, the duties of his office not inconsistent with the laws of this State, and may sue and be sued in the courts of this State.

**Powers of corporations of other States, subject to certain duties and liabilities; proviso.**

**§ 2.** A corporation created under the laws of the State in which the greater part of the line of such railroad may be situated, for the purpose of taking title to and operating the entire line of railroad so sold, as provided in the preceding section, with its franchises and appurtenances, the judgment, decree and sale having been duly confirmed and approved, as therein provided, may hold, possess and operate that part of the line of such railroad lying in this State, and shall have all the rights and franchises theretofore possessed by the corporation executing the mortgage under which such judgment or decree and sale was made, and such as now are or may hereafter be conferred upon railroad corporations organized under the laws of this State, and shall be subject to the duties and liabilities to which such corporation was by the laws of this State subject, and to such further or other duties and liabilities as are now or may hereafter be imposed by law upon railroad corporations of this State; provided that an exemplified copy of the charter, certificate of incorporation or articles of association of the corporation and by virtue of which such corporation is created, and of the judgment or decree under which said entire line of railroad was sold an

certified copy of the order or judgment or decree of confirmation and approval required by the preceding section, shall be filed in the office of the Secretary of State for this State.

CHAP. 5, LAWS OF 1880.

AN ACT to authorize the president, treasurer and secretary of any railroad company to issue certificates of stock in certain cases, after a foreclosure and sale of the property and franchises of the corporation.

When president, etc., to issue certificates of stock.

SECTION 1. The president, treasurer, and secretary of any railroad company organized under the laws of this State or either of them, whose property and franchises have been sold under a foreclosure of any mortgage given to secure the payment of any bond or bonds issued by such company, are hereby authorized and required after such foreclosure and sale upon demand of any individual, or any duly authorized officers of any corporation, town, county or city, entitled thereto, to issue certificates of stock in said railroad company, provided, when any such individual or the proper officers of any corporation, county, town or city duly authorized so to do have subscribed to the stock of such railroad company, and paid the amount of such subscription to the officers of such railroad company, either in money or bonds, before the date of such foreclosure and sale, and a certificate of stock through the neglect of such railroad company or of any individual or the officers of any town, county, city or corporation has not been issued and delivered to said subscriber or the officers of any corporation, town, county or city for the amount of money or both so subscribed and paid.

Effect of certificate.

§ 2. All certificates of stock issued under the authority of the first section of this act shall have all the force and effect, and shall give the holder all the rights which would pertain thereto as if said stock had been issued at the date and payment of the subscription thereto.

CHAP. 606, LAWS OF 1875.

AN ACT further to provide for the construction and operation of a steam railway or railways in counties of the State.

Application for railway commissioners; appointment of; railways in cities.

SECTION 1. Whenever it shall appear, by the application of fifty reputable householders and taxpayers of any county in this State, verified upon oath before a justice of the Supreme Court, that there is need in such county of a steam railway or railways for the transportation of passengers, mails or freight, the board of supervisors of said county may, within thirty days after the presentation to them of such application, duly verified as aforesaid, appoint five commissioners, who shall be residents of the said county, and who shall have full power and authority to do and provide all that they are hereinafter directed to do and provide, and a certificate of whose appointment, signed by the chairman and clerk of said board, shall be filed in the office of the

Secretary of State, and a duplicate thereof in the office of the clerk of such county. But whenever any such proposed railway shall be wholly within the limits of any city in the State, then such application shall be made only to the mayor of said city, and such mayor shall appoint such commissioners as aforesaid.

**Commissioners to take oath and give bond.**

§ 2. Within ten days after their appointment, each of said commissioners shall take and subscribe an oath faithfully to perform the duties of his office, the said oath to be filed in the office of the Secretary of State, and a duplicate thereof in the office of the clerk of such county, and shall give a bond to the people of the State of New York in the penal sum of \$25,000, conditioned for the faithful performance of the duties required by this act, which bond shall have two or more sureties, to be approved by a justice of the department of the Supreme Court including such county, and shall be filed in said clerk's office before said commissioner shall assume or perform any of the duties of his office.

**First meeting of commissioners.**

§ 3. Within fifteen days after their appointment, the said commissioners shall meet at some convenient place in such county, and organize themselves as a board with appropriate officers.

**Commissioners to determine upon the necessity of railroads; exception: proviso.**

§ 4. Said commissioners shall, within thirty days after such organization, determine upon the necessity of such steam railway or railways, and if they find such railway or railways to be necessary in such county, they shall, within sixty days after such organization, fix and determine the route or routes for such steam railway or railways, and the said commissioners shall have the exclusive power to locate the route or routes of such railway or railways over, under, through or across the streets, avenues, or land in such county, except Broadway and Fifth avenue below Fifty-ninth street, Fourth avenue and Forty-second street, in the city of New York, and except over, under, through or across those portions of Grand, Clason and Franklin avenues and Downing street in the city of Brooklyn, lying between the southerly line of Lexington avenue and the northerly line of Atlantic avenue, and over, under, through or across that portion of Clason avenue, in said city, lying between the northerly line of Lexington avenue and the southerly line of Park avenue, and over, under, through or across that portion of Washington avenue in said city lying between Park and Atlantic avenues, and except over, under, through or across DeBevois place, Irving place and Leffert's place in said city of Brooklyn; and except such portions of streets and avenues as are already legally authorized for or occupied by an elevated or underground railway, and except such as are contained in public parks or occupied by buildings belonging to such county, or to this State, or to the United States, and except that portion of the city of Buffalo lying between Michigan and Main streets; and to provide for the connection or junction with any other railway or bridge, provided that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railway or railways be first obtained, or in case the consent of such property owners cannot be obtained, that the determination of three commissioners appointed by the general term of the Supreme Court in the district of the proposed construction, given after due hearing of all parties interested, and confirmed by the court, that such railway or railways ought to be constructed or operated, be taken in lieu of the consent of such property owners. But not ag

herein contained shall prevent the construction of an elevated railway across any excepted streets, places, and avenues in the city of Brooklyn at their intersection only with other streets, places and avenues. (*Thus amended, Laws of 1881, chap. 485.*)

(See in this connection Laws of 1860, chap. 10; also, Laws of 1879, chap. 529.)

#### Plans of construction.

§ 5. The said commissioners having, by such public notice as they may deem most proper and effective, under such conditions and with such inducements as to them may seem most expedient, invited the submission of plans for the construction and operation of such railway or railways, the said commissioners shall meet at a place and upon a day in such public notice named, not more than ninety days after their organization, and decide upon the plan or plans for the construction of such railway or railways, with the necessary supports, turnouts, switches, sidings, connections, landing-places, stations, buildings, platforms, stairways, elevators, telegraph and signal devices, or other requisite appliances upon the route or routes, and in the location determined by them.

Commissioners to determine when railway to be built; rates of fare; appraisal of damages; before corporation enters upon street certain moneys to be deposited; additional deposit required; proviso.

§ 6. The said commissioners shall, within the like period of ninety days after their organization, fix and determine the time within which such railway or railways or portions of the same, shall be constructed and ready for operation, together with the maximum rates to be paid for transportation and conveyance over such railway or railways, and the hours during which special cars or trains shall be run at reduced rates of fares. The said commissioners shall also, within the like period of ninety days after their organization, fix and determine the amount of the capital stock of the company to be formed for the purpose of constructing, maintaining and operating such railway or railways for public use in the conveyance of persons and property, the number of shares into which such capital stock shall be divided, and the percentage thereof to be paid in cash on subscribing for such shares. The said commissioners shall also, within one hundred and ten days after their organization, ascertain and determine the aggregate pecuniary damage arising from the diminution in value of the property bounded on that portion of such street or streets, highway or highways, upon which it is proposed to construct and operate such railway or railways, to be caused by the construction, maintenance and operation thereof. For the purpose of ascertaining such aggregate pecuniary damage the said commissioners shall view the several parcels of real estate bounded as aforesaid, and shall appraise separately the pecuniary damage arising from the diminution in value of each parcel thereof to be caused as aforesaid, and for the purposes of such appraisal they "shall give notice of the time and place when and where they will meet to hear the owners, or persons interested in the said several parcels of real estate bounded as aforesaid, which notice shall be published for at least ten days consecutively in at least two newspapers published in the county where such railway is to be constructed, and may in their discretion take testimony upon the probable diminution in value of any or all such parcels to be caused as aforesaid, and the aggregate sum of the amounts so appraised and determined by said commissioners shall be the aggregate pecuniary damage required to be ascertained and determined by said commissioners as above pro-

\*The following part of section 6 is not applicable to the counties of New York and Westchester. § 5, chap. 393, Laws of 1882.

vided. And no corporation which shall hereafter be organized under this act shall enter upon any street, highway or lane of any city or county of this State, or become vested, either directly or indirectly, whether by implication or otherwise, with any right, privilege or franchise in any street, highway or lane therein, until it shall first have deposited with some trust company, to be designated by the mayor of the city within which it is proposed to construct the railway, or by the board of supervisors, when the road does not lie wholly within the city, a sum of money equal to the amount so ascertained and determined as aforesaid by said commissioners to be the aggregate pecuniary damage to the property, bounded as aforesaid, or shall have secured the payment of such amount by depositing with the said trust company negotiable securities, equivalent to their par and actual value to the aggregate amount aforesaid, and approved either by the county treasurer, or, in case the said commissioners shall have been appointed by the mayor of a city, then by the said mayor. And the said corporation shall also at the same time deposit with the said trust company, or with the county treasurer, the sum of \$5,000 in cash, for the payment of the expense of apportioning and distributing the aforesaid fund; and unless such moneys or securities as aforesaid shall be deposited by such corporation within one year after it shall have obtained the consent of the local authorities, and of the property owners, or of the confirmation by the general term of the Supreme Court of the determination of three commissioners, appointed by said court, as required by the fourth section of this act, and in the case of a company heretofore organized within one year after it shall have obtained confirmation by the general term of the Supreme Court of the report of three commissioners appointed by said court, in lieu of the consent of property owners, or within one year after the commissioners appointed to ascertain and determine the aggregate pecuniary damages as provided in this act shall have made their report, then and in such case the said corporation shall be deemed not to have accepted the franchises duly granted.

Provided, however, that in all cases where the said commissioners shall fix and determine different periods of time within which different sections of said railway shall be constructed and ready for operation, they shall ascertain, determine and report separately the aggregate pecuniary damage to property bounded upon that portion of said street or streets upon which each of such sections is located; and upon the deposit by said corporation as above provided of moneys or securities equivalent to the aggregate pecuniary damage to be sustained by any one of such sections of said railway, said corporation shall immediately be vested with the right and privilege to construct its railway through such section. (*So amended, Laws of 1882, chap. 393.*)

#### Articles of association; proviso as to forfeiture.

§ 7. The said commissioners shall prepare appropriate articles of association for the company in the last section mentioned, in which said articles of association shall be set forth, and embodied, as component parts thereof, the several conditions, requirements and particulars by said commissioners determined pursuant to sections 4, 5 and 6 of this act, and which further shall provide for the release and forfeiture to the supervisors of the county of all rights and franchises acquired by such corporation in case such railway or railways shall not be completed within the time and upon the conditions therein provided; and the said commissioners shall thereupon and within one hundred and twenty days after the organization as aforesaid, cause a suitable book of subscription to the capital stock of such company to be opened, pursuant to due public notice, at a banking office in such county.

\*Provided, however, that a failure by any corporation heretofore or here-

\*The following proviso is not applicable to the counties of New York and Westchester.  
§ 6, chap. 393, Laws of 1882.

after organized under this act to complete its railway within the time limited in and by its articles of association shall work a forfeiture of the franchises of such corporation only with respect to that portion of its route which such corporation shall have failed to complete, and shall not affect the rights and franchises of such corporation to construct and operate such part of its railway which it shall have completed within the term prescribed by its articles of association, or as to which the time for completion shall not have expired, any thing contained in the articles of association of such corporation to the contrary hereof in any wise notwithstanding. (*Thus amended by Laws of 1882, chap. 393.*)

### Organization.

§ 8. Whenever the whole capital stock of such company, or an amount of such capital stock proportioned to the part of such railway or railways directed by said commissioners to be first constructed, shall have been subscribed by not less than twenty-five persons, and the fixed percentage of such subscriptions shall have been paid in cash, the said commissioners shall, by written or printed notice of ten days, served personally, or by mail, call a meeting of such subscribers for organization. At such meeting or at any subsequent one to which the same may be adjourned, a majority in number and amount of said subscribers may elect persons, of a number to be theretofore determined by said commissioners, who shall be directors for one year of the corporation formed for the purpose of constructing and operating said railway or railways.

**Commissioners to deliver certificate; affidavit of directors; filing of certificate; corporation, when perfected.**

§ 9. Within ten days after the election of said directors, said commissioners shall deliver to said directors a certificate in duplicate, verified by the oath of three commissioners before a justice of the Supreme Court, setting forth the said articles of association and the organization of the company for the purposes in this act mentioned and provided for; and within five days after the reception by them of such certificate, three of the directors so elected shall make affidavit, in duplicate, that the full amount of stock has been subscribed in good faith, and the prescribed percentage paid in cash thereon, and that it is intended, in good faith, to construct, maintain and operate the railway or railways in such articles of association mentioned, and the said directors shall file said certificates and articles in the office of the Secretary of State, and a duplicate of the same in the office of the clerk of the county wherein such railway or railways shall be located, and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the duties and restrictions of corporations. A copy of such certificate and affidavit, certified to be a copy by the Secretary of this State, or his deputy, shall be presumptive evidence of the incorporation of such company and of the facts therein stated.

### Directors' books, when to be exhibited.

§ 10. Said directors shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors, each stockholder shall be entitled to one vote for each share of stock held by him. Vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. Every corporation formed under this act shall be subject to the regulations concerning the election of directors of moneyed corporations, contained in article second of the second title of the eighteenth chapter of the first part of the Revised Statutes. The inspectors of the first election of directors shall be appointed by the commissioners. No person shall be a director unless he shall be a stockholder owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. At every election of directors the books



and papers of such company shall be exhibited to the meeting, provided a majority of the stockholders present shall require it. The directors shall appoint one of their number president; they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws.

**Payment of subscriptions to stock.**

§ 11. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock, and all previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, postage prepaid, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice; and that if he fails to make the same, his stock and all previous payments thereon, will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

**Liability of stockholder, to creditors, laborers and servants other than contractors; when suit to be brought.**

§ 12. Each stockholder of any company formed under this act shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole amount of the capital stock so held by him shall have been paid to the company, and all the stockholders of any such company shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services for thirty days' service performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such executions shall be the amount recoverable, with costs against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' service, he shall give him notice in writing within twenty days after the performance of such service, that he intends so to hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold with himself.

**Stock deemed personal estate; how and when transferable.**

§ 13. The stock of every company formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully paid in.

**Increase of capital stock.**

§ 14. In case the capital stock of any company formed under this act is found to be insufficient for constructing and operating its road, such

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\* So in original.

pany may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person, or by proxy, of two-thirds in amount of all the stockholders in the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded and directed to him at the post-office nearest his usual place of residence in the post-office, postage prepaid, at least twenty days prior to such meeting. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company, as aforesaid.

#### **Stock held in trust.**

§ 15. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner, and to the same extent, as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

#### **Liability to laborers.**

§ 16. As often as any contractor for the construction of any part of a railroad, which is in progress of construction, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road such laborer may give notice of such indebtedness to said company in the manner herein provided; and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor. Such notice shall be given by said laborer to said company within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed for which the claim is made, and the name of the contractor from whom due, and shall be signed by such laborer or his attorney; and shall be served on an engineer, agent or superintendent employed by such company having charge of the section of the road on which such labor was performed personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent with some person of suitable age. But no action shall be maintained against any company under the provisions of this section, unless the same is commenced within thirty days after notice is given to the company by such laborer as above provided.

#### **Real estate.**

17. Every such corporation shall have the right to acquire and hold such real estate, or interest therein, as may be necessary to enable them to construct, maintain and operate the said railway or railways, and such as may be necessary for stations, depots, engine-houses, car-houses and machine shops; and, in case any such corporation cannot agree with the owner or owners of any such real estate, or of any interest therein, it shall have the right to acquire

title to the same in the manner and by the special proceedings prescribed in this act.

(Sections 18 to 23, inclusive, repealed by Laws of 1890, chap. 95.)

**Where title is defective.**

§ 24. If, at any time after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title, in the same manner as if no appraisal had been made; and at any stage of such new proceedings, the court may authorize the corporation, if in possession, to continue in possession, and if not in possession, to take possession, and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum, or giving security as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same.

The provisions governing proceedings referred to in above section governed by provisions of chap. 95, Laws of 1890.

**When title to real estate is vested in trustee.**

§ 25. In case any title or interest in real estate required by any company formed under this act, for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot, or person of unsound mind, the Supreme Court shall have power, by a summary proceeding on petition, to authorize and empower such trustee, or the general guardian or committee of such infant, idiot or person of unsound mind, to sell and convey the same to such company for the purposes of its incorporation, on such terms as may be just; and in case any such infant, idiot or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or release authorized by this section shall be executed, the terms on which the same is to be executed, shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

**Powers.**

§ 26. Every corporation formed under this act shall have power:

1. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only.

2. To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing, or in any way affecting the act entitled "An act authorizing the construction of railroads upon Indian lands," passed May 12, 1836.

3. To cross, intersect, join and unite its railroad with any other road before constructed at any point on its route, and upon

grounds of such other railroad company, with the necessary turnouts, sidings and switches, and other conveniences in furtherance of the objects of its connections. And every company whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor of the points and manner of such crossings and connections, the same shall be ascertained and determined by commissioners to be appointed by the court, as is provided in this act in respect to acquiring title to real estate.

4. To take and convey persons and property on their railroad by the power or force of steam, or by any motor other than animal power, and to receive compensation therefor.

5. To enter upon and underneath the several streets, avenues, public places and lands designated by the said commissioners, and enter into and upon the soil of the same; to construct, maintain, operate and use in accordance with the plan adopted by said commissioners, a railway or railways upon the route or routes and to the points decided upon, and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon the plan adopted by the said commissioners and for operating the same; except that nothing in this act shall authorize the construction of a railway crossing the track of any steam railway now in actual operation at the grade thereof, or the erection of piers or supports for any elevated railway upon a railway track now actually in use in any street or avenue; and it shall be lawful to make such excavations and openings along the route through which such railway or railways shall be constructed as shall be necessary from time to time; in all cases the surface of said streets around such foundations, piers and columns shall be restored to the condition in which they were before such excavations were made, as near as may be, and shall avoid any interference with or change in the water-mains, or in the sewers or lamp-posts, except such changes as may be made with the concurrence of the proper department or authority; and in all cases the use of the streets, avenues, places and lands designated by the said commissioners, and the right of way through the same, for the purpose of a railway or railways, as herein authorized and provided, shall be considered, and is hereby declared, to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held; but no such corporation shall have the right to acquire the use or occupancy of public parks or squares in such county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction.

6. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purposes aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid, the right to convert the principal due or owing thereon into stock of said company, at any time not exceeding ten years from the date of the bond, under such regulations as the directors may see fit to adopt.

# 1. **employees to wear badge; effect of not wearing badge.**

27. Every conductor, baggage-master, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector, without such

badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant, without such badge, shall have authority to meddle or interfere with any passenger, his baggage or property.

#### **To convey mails.**

§ 28. Any such corporation shall, when applied to by the Postmaster-General, convey the mails of the United States on their road or roads respectively; and in case such corporations shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it shall be lawful for the Governor of this State to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the Postmaster-General shall require the mail to be carried at other hours, or at a higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as aforesaid.

#### **Ejection of passengers.**

§ 29. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping-place, or near any dwelling-house, as the conductor shall elect, on stopping the train.

#### **To run trains at regular times, and to furnish sufficient accommodation.**

§ 30. Every such corporation shall start and run their cars for the transportation of passengers and property, at regular times, to be fixed by public notice; and shall furnish sufficient accommodations for the transportation of all such passengers and property, as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting and the junctions of other railroads, and at usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor; and shall be liable to the party aggrieved, in an action for damages, for any neglect or refusal in the premises.

#### **Intoxication of employees.**

§ 31. If any person shall, while in charge of a locomotive engine running upon the railroad of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

§ 32. (Repealed.) Chap. 593, Laws of 1886.

#### **Penalties, how recovered.**

§ 33. All penalties imposed by this act may be sued for in the name of the people of the State of New York; and if such penalty be for a sum not exceeding \$100, then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director of such company.

#### **Legislature may dissolve company.**

§ 34. The Legislature may, at any time, annul or dissolve any incorporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporation, its stockholders or officers for any liability which shall have been previously incurred.

**Where route crosses horse railroad track.**

§ 35. Whenever the route selected by the said commissioners for the construction of said railway shall intersect, cross or coincide with any horse railway track occupying the surface of said streets or avenues, the said railway corporation is hereby authorized to remove, for the purpose of constructing the said work, the tracks of said horse railways; but the same shall be done in such manner as to interfere as little as possible with their practical operation or working, and upon the construction of said railway, where such removals or changes have been made, the same shall be restored, as near as may be, to the condition in which they were previous to the construction of said railroad. All such removals and restorations shall be made at the proper cost and charges of the said corporation. Nothing contained in this act shall authorize any corporation formed thereunder to use the tracks of any horse railway.

**Where route coincides with another route; elevated railways.**

§ 36. Whenever the route or routes determined upon by said commissioners coincide with the route or routes covered by the charter of an existing corporation formed for the purpose provided for by this act, provided that said corporation has not forfeited its charter or failed to comply with the provisions thereof, requiring the construction of a road or roads within the time prescribed by its charter, such corporation shall have the like power to construct and operate such railway or railways, upon fulfillment of the requirements and conditions imposed by said commissioners as a corporation specially formed under this act; and the said commissioners may fix and determine the route or routes by which any elevated steam railway or railways now in actual operation may connect with other steam railways or the depots thereof, or with steam ferries; upon fulfillment by such elevated steam railway company, so far as it relates to such connection, of such of the requirements and conditions imposed by said commissioners under section 4 of this act, as are necessary to be fulfilled in such cases, under section 18 of article 3 of the Constitution of this State, and such connecting elevated railway shall in such case possess all the powers conferred by section 26 of this act; and when any connecting route or routes shall be so designated, such elevated railway company may construct such connection, with all the rights, and with like effect, as though the same had been a part of the original route of such railway.

**Commissioners to transfer plans, etc., to corporation.**

§ 37. Within one month after such corporation shall have been formed and organized in the manner hereinbefore provided, the said commissioners shall transfer and deliver to the said corporation all plans, specifications, drawings, maps, books and papers in their possession. And the said commissioners shall, within the like period of one month after the organization of such corporation, cause to be paid to the treasurer thereof all money collected under the provisions of this act, after deducting therefrom the necessary expenses incurred by said commissioners and the amounts due or to accrue to them for their salaries.

**Pay of commissioners.**

§ 38. Each of said commissioners shall be paid for his services at the rate of \$10 per day for each day of actual service as such commissioner, to be paid by such corporation; but if a sufficient amount of capital stock shall not be subscribed within one year after the appointment of such commissioners to authorize the formation of such corporation, the said commissioner shall receive no salary, and shall cause to be returned to the subscribers for said stock the amounts paid in by them, after deducting therefrom the necessary expenses incurred by said commissioners; provided, however, that the time, if any, unavoidably consumed by the pendency of legal proceedings shall not be deemed a part of any period or time limited in this act.

**(Commissioners; relating to; duties of, etc.**

§ 39. A majority of the members of any board of commissioners appointed under this act shall be deemed and considered sufficient for the

transaction of any business, or for the performance of any of the duties or functions, or the exercise of any of the powers, hereby conferred or enjoined upon such commissioners. Either of said commissioners may be removed for cause at any time by the power appointing him, but no commissioner shall be removed without due notice and an opportunity of being heard in defense; and no commissioner thus removed is or shall be eligible to be again appointed to the office of commissioner. In case of the death, resignation or removal from office of any commissioner appointed under this act, the vacancy shall be filled, by the power appointing him, within thirty days after such removal, or within thirty days after notice in writing to such appointing power given by the other members of the board, or by some one of them or by the corporation hereinafter mentioned, of such death or resignation; and a certificate of every such appointment shall be filed as aforesaid. Except as otherwise provided by law, the terms of office of the said commissioners shall determine and expire with the performance of their functions as hereinabove prescribed. But any corporation heretofore organized or hereafter to be organized under this act, the successor or assign of any such corporation, which shall have constructed and put in operation a railway upon a part, and not upon the whole, of the route or routes fixed, determined and located for such railway by a board of commissioners acting under this act, may at any time apply for authority to abandon the portion, or some parts or part of it, of said route or routes upon which the railway shall not have been theretofore constructed or shall not be then in operation, with or without a change and relocation of said portion, or of some parts or part of it, of said route or routes, and with or without extension or extensions of the portion not abandoned of such route or routes, or of some parts or part thereof. Such application shall be made by petition in writing, addressed by such corporation to the board of supervisors of the county in which such portion of said route or routes so desired to be changed or abandoned shall be situated, or, if such route or routes or any part thereof shall be within the limits of a city, to the mayor of said city, for the route or portion thereof within such city, and such board of supervisors or, as the case may be, such mayor may, within thirty days after presentation of such application, and in the manner provided in section one of this act, appoint five commissioners, who shall be residents of said county, and who shall have full power and authority to do and provide all that they are in this act directed or authorized to do or provide. Within ten days after his appointment, each of said commissioners so appointed shall take and subscribe the oath and give the bond prescribed by section two of this act, and shall cause the same to be filed as in said section provided; and if any one so appointed shall not comply with this requirement, he shall be deemed to have declined to accept such appointment, and to have made a vacancy which the appointing power shall fill by another appointment as herein provided. Within fifteen days after such appointments shall have been so made, the commissioners shall meet at some convenient place in such county and complete their organization as a board with appropriate officers; such board shall have all the authority conferred by law upon commissioners appointed, or authorized to be appointed, under this act. Before proceeding to hear the application of the corporation, the board shall give such public notice as it may deem most proper and effective of the time and place of the hearing. Within thirty days after completing their organization, said board shall hear the application of the corporation, and, within sixty days after their organization, said board shall determine whether any parts or part of such route or routes should be authorized to be abandoned, and whether said portion of said route or routes, or any parts or part thereof, should be changed and relocated with or without extension or extensions as aforesaid. If the board shall determine that no abandonment of any part of the route or routes should be allowed, and that no change and relocation of any part of the route or routes should be effected, and that no extension should be made, the board shall dismiss the application. But, if the board shall determine that abandonment of any parts or part of said portion of the routes or routes should be allowed or that any change in or extension of any parts or

of such portion of the route or routes should be made, the board shall proceed to authorize and require the same, upon such conditions or condition as to the board shall seem proper, and with or without extension of the remainder of the route or routes, or of some parts or part of such remainder, by fixing, determining and locating the route or routes of the extension or extensions, if any, and by directing the abandonment of the parts or part of the route or routes theretofore located, but by the board allowed to be abandoned, if any, and by fixing, determining and relocating the parts or part of the route or routes theretofore located, but by the board changed, if any; and the board shall cause to be made in duplicate a survey and map of the route or routes as so changed and fixed, determined and located. Neither the said corporation nor any assign or successor thereof, shall thereafter have any authority, by reason of anything theretofore done under this act, to operate or construct any railway upon any part of said portion of the route or routes by the board so required to be abandoned. The board shall also fix and determine the time within which the railway or railways, by it authorized and required upon any parts or part of the portion of the route or routes so changed, shall be constructed and ready for operation. If the railway or railways upon any parts or part of any portion of the route or routes not by the board changed or allowed to be abandoned shall not have been theretofore constructed and made ready for operation, the board may extend and fix and determine anew, the time within which such railway or railways shall be completed, but such extension of time within which to construct said railroad shall not be for a longer period than that originally allowed by law for the completion thereof. If the board shall have determined that any portion of the route or routes theretofore located should be allowed to be abandoned, with or without a change and relocation thereof or of some parts or part thereof, and with or without extension, or if the board shall have extended the time within which such railway or railways shall be completed, the board shall make a report in writing in accordance with the determination so made, describing the portion or portions of the route or routes, if any there be, as so fixed, determined and located anew, describing also the parts or part, if any there be, of the routes or route allowed to be abandoned, and stating the period of time, if any, by the board fixed and determined within which such corporation shall construct and complete the railway or railways theretofore authorized or by it authorized to be constructed, and prescribing that a failure by the corporation, its successors or assigns, to complete such railway or railways within the time, if any, so limited, shall work a forfeiture to the supervisors of the county, or in the city of New York, to the mayor, aldermen and commonalty of the city of New York, of the right and franchises of such corporation with respect to that portion of the route or routes so fixed, determined and located anew, and with respect to the then authorized extension or extensions, if any there be, of said route or routes, upon which a railway shall not be constructed within the time so limited; provided, however, that the time, if any, unavoidably consumed by the pendency of legal proceedings shall not be deemed a part of any period of time limited in this act or by this act authorized to be limited, and that any recital of any forfeiture of any rights or franchises prescribed, by any commissioners under this act appointed, to be to the mayor, aldermen and commonalty of the city of New York, shall be as effectual for any and all purposes as if such forfeiture had been in terms recited to be to the supervisors of the county of New York. Such report shall be signed in duplicate by at least a majority of the then members of the board, and there shall be thereto annexed the survey and map prepared as hereinabove directed, showing the line and location of each and all the routes, with or without extension or extensions, as fixed, determined and located, and showing also the parts or part, if any there shall be, of the routes or route, as theretofore fixed, determined and located, but by the board allowed to be abandoned. Within ten days after so signing such report the board shall cause the same to be filed in the office of the Secretary of State, and the duplicate thereof in the office of the clerk of the county wherein such railway or railways shall be located; and thereupon the corporation making such application, its successors or assigns, is and shall be authorized to con-



struct, maintain and operate a steam railway or railways for the transportation of passengers, mail and freight upon the route or routes so fixed, determined and located, and in said report described; provided, that the construction or operation of a street railroad is not and shall not be by this law authorized except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway, upon which it is proposed to construct or operate such railroad be first obtained, or, in case the consent of such property owners can not be obtained, that the determination of three commissioners, to be, upon application, appointed by the general term of the Supreme Court, in the district in which such railroad is proposed to be constructed, be given after a hearing of all parties interested, that such railroad ought to be constructed or operated, which said determination, confirmed by the court, may be taken in lieu of the consent of the property owners. Said corporation is, and the successors and assigns thereof shall be, authorized to maintain and operate all the railway and railways and the appurtenances thereof by it or them theretofore constructed upon any portion of a route or routes which shall have been located by commissioners under this act, and to complete, within the time in and by said report so extended, fixed and determined anew, and thereafter to maintain and operate, the railway or railways and the appurtenances thereof, upon so much of the route or routes theretofore fixed, determined and located as shall not have been so authorized and required to be abandoned, and with the same rights and effect, in all respects, as if such extended period of time had been the period originally fixed and determined, and in the original articles of association of such corporation recited, for completing such railway or railways and putting the same in operation. The other terms and conditions in and by such articles of association mentioned and prescribed, except as the same are hereinabove modified or may be modified by the board as hereinabove authorized, shall apply to the railway or railways herein authorized to be constructed and operated upon the route or routes as so changed, fixed, determined and located, with the same force and effect as if such route or routes, as finally so changed and located, had been in and by such articles of association themselves prescribed. Each of said commissioners shall be paid for his services at the rate of ten dollars per day for each day of actual service as such commissioner, to be paid by the corporation making the application so heard and determined; and each and all the reasonable expenses of the board, in or about any of the matters in this section referred to, shall also be paid by such corporation. (*Thus amended, Laws of 1888, chap. 514.*)

#### Limitations of act.

§ 40. This act shall not be construed to repeal or in any manner to affect chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," or the several acts amendatory thereof or supplementary thereto. None of the provisions of this act shall apply to any railroad company organized under any general or special law of this State, for the purpose of constructing or operating a steam railroad upon the surface of the ground, nor to the operation or management of any such railroad heretofore constructed.

#### Other limitations.

§ 41. It shall not be lawful for any company organized under the provisions of this act, or under any other act heretofore passed, to construct a steam railway upon St. Nicholas avenue in the city of New York, or those streets or avenues in said city commonly known as boulevards, except to cross the same, under such regulations as shall be imposed by the commissioners provided for by this act, and every such company shall bound by the restrictions and limitations, as to its route and as to its mode of construction, which shall be established by the commissioners appointed under the acts from which its powers were derived, as far as such restrictions and limitations are consistent with the provisions of this act. The provisions of this section shall not be deemed to apply to any existing horse street railway heretofore authorized to be constructed.

(As to certain streets in New York city, see chap. 179, Laws of 1887.)

**Proceedings for the apportionment of damages.**

\*§ 42. At any time not less than two years nor more than three years after the completion and operation of said railway or railways, any owner of, or party having or claimed to have any estate or interest in any of the property bounded upon that portion of any street or highway upon which such railway shall have been constructed, may petition the Supreme Court at any general term thereof, held in the judicial district in which such railway shall be located, for the appointment of commissioners to apportion among the persons entitled thereto, under the provisions of this act, the moneys deposited or secured for the payment of pecuniary damages under the sixth section thereof. Such petition shall be signed and verified according to the rules and practice of such court, and shall contain a description of the property of such petitioner, together with a statement in detail of damages which he may claim to have sustained. Upon the presentation of such petition, the court shall make an order for the service of the same, and of notice of the time and place of an application thereupon for the appointment of commissioners, by the publication of such petition and notice in not less than two newspapers published in the county in which the said railway is located, and not less than once a week for at least three months from the date of the first publication. (*Thus amended, Laws of 1882 chap. 393.*)

**Ibid.**

§ 43. At the time and place named in the said notice so published as above provided, and after hearing all parties appearing pursuant to such notice, the said court shall make an order for the appointment of three disinterested and competent persons, who shall be residents and freeholders in the county in which said railway is located, as commissioners to apportion among the persons entitled thereto, under the provisions of this act, the amount deposited as required by the sixth section hereof. (*Added by Laws of 1882, chap. 393.*)

**Ibid.**

§ 44. The said commissioners shall take and subscribe the oath prescribed by the twelfth article of the Constitution. Any one of them may issue subpoenas and administer oaths to witnesses; any two of them may adjourn the proceedings before them from time to time, in their discretion. Whenever they meet, except by the appointment of the court, or pursuant to adjournment, they shall cause notice of such meeting to be given to all parties who have appeared in the proceedings, in such manner as the court shall direct. They shall view the property bounded upon that portion of any street or highway upon which said railway is located, and hear the proofs and allegations of the persons owning, or having or claiming to have an interest therein, and of the railway company, and reduce the testimony, if any is taken by them, to writing; and after the testimony is closed, all being present and acting, shall ascertain and determine what amount of the money deposited or secured, as above provided, ought justly to be paid to each owner or person interested in said property, or any parcel thereof, as compensation for any diminution in value thereof caused by the construction, maintenance and operation of said railway; and in determining such amounts respectively they shall make allowances for any benefit which shall have accrued, or may thereafter accrue, to said property, or any parcel thereof, by reason of the construction and operation of said railway. The sum of all the amounts so awarded shall not exceed the amount deposited or secured by said railway company as above provided. The said commissioners shall make a report to the Supreme Court, signed by them, or a majority of them, of the proceedings before them, with the minutes of the testimony taken by them, if any. Said commissioners shall be entitled to \$5 per day for each day they are engaged in the performance of their duties. The fees of said commissioners, together with their reasonable expenses, approved by a justice of the Supreme Court, upon notice to the said railway company, shall be

paid out of the moneys deposited with the county treasurer or trust company for such purpose as above provided in the sixth section hereof, and any balance of said moneys so deposited for such purpose shall thereupon be paid over to said railway company. No costs shall be allowed in the proceedings before said commissioners. (*Added by Laws of 1882, chap. 393.*)

**Ibid.**

§ 45. On such report being made by such commissioners, the petitioner, or any party who shall have appeared in the proceedings, may give notice to the other parties who have appeared according to the rules and practice of said court, at a special term thereof, for the confirmation of such report, and the court shall thereupon confirm such report, and shall make an order containing a recital of the substance of the proceedings, and shall also direct to whom the money is to be paid. (*Added by Laws of 1882, chap. 393.*)

**Ibid.**

§ 46. Upon the expiration of thirty days after the entry of said order of confirmation, and upon the presentation of a certified copy thereof, the county treasurer or trust company shall pay the sums awarded by such order to the persons entitled thereto under the provisions of said order. Within twenty days after the entry of said order confirming the report of the commissioners and service thereof upon all parties who have appeared, any party may appeal, by notice in writing served upon all who have appeared, and upon the county clerk and county treasurer, to the general term of the Supreme Court from the said order of confirmation; and service of such notice upon the county treasurer or trust company shall stay all payments by him or it until the further order of the court. Such appeal shall be heard by the Supreme Court at any general term thereof, on notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may affirm the order so appealed from, or may reverse the same and direct a new apportionment before the same or new commissioners, in its discretion; and in cases new apportionment shall be directed, the second report shall be final and conclusive upon all parties interested. (*Added by Laws of 1882, chap. 393.*)

**County treasurer or trust company to retain award in certain cases.**

§ 47. In case any award shall have been made by said commissioners for diminution in value of any property, the owners of or persons interested in which shall not have appeared in said proceedings, the amount of such award shall be retained by the county treasurer or trust company, subject to such order as the court may afterward make. (*Added by Laws of 1882, chap. 393.*)

**Excess of award over amount deposited to be repaid to corporation.**

§ 48. In case the aggregate amount awarded to the several owners and persons interested shall be less than the amount deposited with the county treasurer or trust company as aforesaid, the excess of such amount shall be repaid to the corporation depositing the same, such repayment not to be made until thirty days after final confirmation of the report of the commissioners of apportionment. (*Added by Laws of 1882, chap. 393.*)

**Proceedings where negotiable securities are deposited in lieu of money.**

§ 49. In case the said corporation shall have deposited with the county treasurer or trust company negotiable securities in lieu of moneys, as provided in the sixth section hereof, then upon the confirmation of the report of the commissioners of apportionment, the county treasurer or trust company shall notify said railway company to pay to him the aggregate amount awarded by said report, and upon its failure so to do, shall sell the said securities, or such part thereof as may be necessary for the purpose of raising such amount. (*Added by Laws of 1882, chap. 393.*)

**When other securities are to be substituted.**

§ 50. In case any of the securities which may be deposited in lieu of money as provided in the sixth section hereof, shall, in the opinion of the

county treasurer or trust company with whom they may be deposited, fall below their actual value at the time of deposit, the said county treasurer or trust company shall call upon said railway company to substitute therefor other securities equivalent at their par and market value to the amount in lieu of which the securities for which they are to be substituted were deposited, and in case such other securities shall not be furnished, the said county treasurer or trust company shall call upon said railroad company to furnish as a substitute, and said railroad company shall so furnish, an amount of money equal to the amount in lieu of which the securities first above referred to were deposited. (*Added by Laws of 1882, chap. 393.*)

**Appointment of commissioners to estimate and fix damages ; proceedings thereupon.**

§ 51. Any corporation heretofore organized under the provisions of the act hereby amended, and which has not constructed its railway and has obtained the consent of the local authorities to the construction and operation of a railway upon any or all of the routes designated for it by its articles of association, and whose rights under such consent have not terminated, and whose proposed railway lies wholly within the limits of any city, may, within ninety days after the passage of this act, apply to the mayor of such city for the appointment of commissioners to estimate and fix the damages to be caused by the construction and operation of its railway upon and along the streets or highways as to which such consent has been given.

Such mayor shall thereupon appoint three disinterested and competent freeholders, residents in such city, who shall thereupon each take and subscribe an oath faithfully to perform the duties of his office ; and the commission provided by this section shall thereupon have all the powers and authority as to ascertaining, estimating and fixing damages that the commissioners mentioned in the first section of this act have as to any corporation organized or to be organized by them, and all the provisions of this act as to ascertaining, estimating and fixing damages, the deposit of money or securities in lieu thereof, and the proceedings and authority to distribute and apportion the same, and the effect of a failure to make the deposit as thus required, shall apply to such corporation and commission, except so far as inconsistent with this section, and after a commission shall have been appointed under this section to ascertain, estimate and fix damages as hereinbefore provided, the corporation which made the application therefor may proceed without prejudice to obtain such other consent or authority as it may require, and the proceedings had under the authority given by this section may be presented in aid of any application it may make. (*Added by Laws of 1882, chap. 393.*)

(None of the provisions of this act, to wit, chap. 393, Laws of 1882, shall apply to the counties of New York, Kings and Westchester, and nothing herein contained shall be deemed to affect existing provisions of law as to the acquisition of the title to real estate for railroad purposes. § 5, chap. 393, Laws of 1882, as amended, chap. 551, Laws of 1886.)

#### CHAP. 514, LAWS OF 1886

**AN ACT** to amend chapter six hundred and six of the laws of eighteen hundred and seventy-five, entitled "An act further to provide for the construction and operation of a steam railway or railways in the counties of the State."

(Section 1 of this act amends § 18 of chap. 606, Laws of 1875. [See ante.] )

(Section 2 of this act amends § 39 of said chap. 606, Laws of 1875. [See ante.] )

§ 3. The provisions of section two of this act do not authorize and shall not be construed to authorize the extension, abandonment, or change of location of any route, or of any part of any route, of any corporation the greater portion of whose routes or route is or shall be in that portion of the city of New York south or west of Harlem river, and do not authorize and shall not be construed to authorize, the extension, abandonment, or

change of location of any route, or of any part of any route, of any corporation in the city of Brooklyn or county of Kings; and nothing in this act contained shall authorize or be construed to authorize the construction, extension, abandonment, or change of location of any railway, or the location of any route for a railway, over, under, through or across any street, avenue, place or lands south of One Hundred and Twenty-eighth street or west of Third avenue in that portion of the city of New York south or west of Harlem river, or where a railway may not now by law be constructed or is not now by law authorized to be by a board of commissioners located.

#### CHAP. 485, LAWS OF 1881.

**AN ACT** to amend and supplementary to chapter 606 of the Laws of 1875, entitled "An act further to provide for the construction and operation of a steam railway or railways in the counties of the State," as amended by chapter 417 of the Laws of 1880.

(Section 1 amends Laws of 1875, chap. 606, § 4.) [See page 391 hereof.]

#### **Route in case of exempted streets.**

§ 2. Wherever any street or part of a street, by this act exempted from the provisions of the acts hereby amended, has, by commissioners appointed by the mayor as in said amended acts provided, been designated or determined upon, as a portion of the route of a steam railway, and a corporation has been formed under said acts to construct a railway over or on such exempted streets, the said commissioners shall have the power to fix, determine and locate a route for the railway of such corporation over, under, through or across the streets, avenues, places or lands not exempted, in the city where such exempted street is located, as may by such commissioners be deemed to be necessary or proper on account of such street having been exempted as aforesaid, but in the same general direction as such exempted street. Nothing in this act contained shall affect any rights or proceedings of such corporation in or to the remaining portion of its route, and all such proceedings may be continued, and such commissioners may strike from the route of such corporation all portions thereof which they may deem have been rendered inappropriate or inapplicable by this act. The term street in this section shall be deemed to include avenue or place.

#### **Plans; right to build railways.**

§ 3. The said commissioners shall also have the power, at the same time, to fix the plan or plans for the railway to be built upon the route by them fixed as herein provided, but such plans shall be of the same general character as those by them theretofore for the railway of such company provided, and they shall certify and verify by affidavit their proceedings had under this and the preceding section, and file such certificate and affidavit in the office of the Secretary of State with and as a part of the articles of incorporation of such corporation, theretofore filed, and a copy of such certificate and affidavit, certified to be a copy by the Secretary of State or his deputy, shall be presumptive evidence of the facts therein stated. Such corporation shall have the right to build and operate its railway upon the route fixed therefor (as in this and the preceding section provided) subject to the provisions and requirements contained in the section amended by the first section of this act, and all the provisions of the acts by this act amended, not inconsistent herewith, shall apply to the route fixed as in this and the preceding section provided, and the route under such sections fixed and the portion remaining of the route originally fixed shall be and be deemed to be the route for the railway of the corporation.

## CHAP. 252, LAWS OF 1884.

**AN ACT** to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages.

**Corporators**, not less than thirteen; articles of association; what to contain when filled; duty of Secretary of State; subject to provisions of title 3, chapter 18 of the first part of the Revised Statutes, except seventh section; subject to General Railroad Act, except as modified; certificate to be filed with Secretary of State; what to contain.

**SECTION 1.** Any number of persons, not less than thirteen, may make and sign articles of association, and form a company for the purpose of constructing, maintaining and operating a street surface railroad for public use in the conveyance of persons and property in cars for compensation, in any of the cities, towns or villages of this State, or in any two or more civil divisions thereof. Such articles of association shall state the name of the company, the number of years the same is to continue, the names of the cities, towns and villages, and the counties, and the names or description of the streets, avenues and highways in which the road is to be constructed, the places from and to which the road is to be constructed, maintained and operated, the length of said road, as near as may be, the amount of the capital stock of the company, which shall not be less than \$10,000 for every mile of road constructed, or proposed to be constructed, and the number of shares of which said capital stock shall consist, and the names and places of residence of the seven or more directors of the company who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber of said articles of association shall subscribe thereto his name, place of residence, and number of shares of stock he agrees to take in said company. Such articles of association shall be filed in the office of the Secretary of State when \$1,000 of stock for every mile of railroad proposed to be constructed has been subscribed thereto, and ten per cent paid thereon in good faith, in cash, to the directors named in said articles of association, and when there is indorse on said articles of association, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per cent paid in cash thereon, as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association, which affidavit shall be recorded with the articles of association. The Secretary of State shall indorse on said articles of association the day they are filed, and record the same and said affidavit in a book to be provided by him for that purpose; and from the date of such filing the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title 3 of chapter 18 of the first part of the Revised Statutes, except the provisions contained in the seventh section of said title. Such corporation shall also have all the powers and privileges granted, and be subject to all the liabilities imposed by this act, or by the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and the several acts amendatory thereof, except as the said acts are herein modified. No existing street surface railroad company shall extend its line, or construct any branch thereof under this act, until it has made and filed with the Secretary of State a certificate signed by its board of directors, which certificate shall contain a statement of the name of the cities, towns, villages and counties, and the names or description of the streets, avenues and highways in which such extension or branch is to be constructed, the places from and to which the same is to be constructed, maintained and operated, and the length thereof as near as may be.

**Board of directors; their number.**

§ 2. The board of directors of every corporation formed under this act shall consist of not less than seven nor more than thirteen.

**Powers and privileges; proviso; consent of owners to be acknowledged, who are the local authorities.**

§ 3. Any company organized as aforesaid, or any existing street surface railroad company or corporation heretofore organized for the purpose of building and operating a street railroad, may construct, maintain and operate, use and extend a railroad or branches on the surface of the soil, through, upon and along any of the streets, avenues, roads or highways of such cities, towns and villages, and also through, along and upon any private property which said company may acquire for the purpose, and may also construct such switches, sidings, turnouts and turn-tables, and suitable stands as may be necessary for the convenient working of such road, provided that the consent in writing of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate, such railroad, be after the passage of this act first obtained. The consent of such owners shall be acknowledged as are deeds entitled to be recorded. In any city the common council acting subject to the power now possessed by the mayor to veto ordinances, and in any village the board of trustees shall be the local authorities to give all the consents required under this act in respect of such city or village. Provided that where in any city the exclusive control of any street, road, highway, avenue, or property which is to be used or occupied by any such company is, by law, vested in any local authority other than the common council of such city, the consent of the local authorities, in whom such exclusive control is so vested, shall be also obtained.

(See in this connection Laws of 1880, chap. 10.)

**Notice; to be published for how long time; consent of local authorities to be applied for in writing; when consent shall cease; value, how determined; when consent of property holders is not obtained.**

§ 4. In incorporated cities, before acting upon an application for their consent, the local authorities shall give public notice of such application and of the time and place when such application will first be considered by a notice thereof, to be published daily for at least fourteen days in two daily newspapers of said city, to be designated by the mayor of the city. And when such application is made to the local authorities of any incorporated village, the notice of such application shall be published for at least fourteen days in a newspaper published in said village, if any there shall be, if none, then in two daily newspapers published in the city nearest such village. The consent of the local authorities shall in all cases be applied for in writing, and when granted shall be upon the express condition that the provisions of this act pertinent thereto shall be complied with, and shall be filed in the office of the county clerk of the county in which said railroad is located. Any consent so given by said local authorities shall cease and determine at the expiration of one year thereafter, unless prior to the expiration of such period the company obtaining such consent shall have filed the consent of the requisite amount in value of property owners or the determination of commissioners confirmed by the court, as herein provided. The consent of the local authorities, given as aforesaid, shall operate as the consent of such city, town or village, as the owners of any property, that such railroad may be constructed, maintained and operated in, upon and along any street, avenue, road or highway by which such property is bounded, except that where such railroad runs through any street or avenue bounded on one side by any public park or square the consent of one-half the owners of property on the other side of said street or avenue, and opposite such park or square shall also be obtained; and the consent heretofore, or hereafter, given as aforesaid by the board of managers or other governing body of any state institution now invested by law with the general direction and control of the property and concerns of such state institution, shall operate as the consent of the state of New York, as the owner of any property occupied by such state institution, that such railroad may be constructed, maintained and operated in, upon and along any street, avenue, road or highway by which such property is bounded. For the purposes of this act the value of the property so bounded shall be ascertained and determined from the assessment-roll of the city or town in which such property is situated, corrected



or completed last before the local authorities shall have given their consent excepting such property owned by such city, town or village, the value of which shall be ascertained and determined by allowing therefor the same price or value as is shown by such assessment-roll to be the value of the equivalent in size and frontage of any adjacent property on the same street. In case the consent of property owners required by any provision of this act cannot be obtained the company so failing to obtain such consents may apply to any general term of the supreme court, held in the district in which the road of such company is proposed to be constructed, for the appointment of three commissioners to determine, after a hearing of all parties interested, whether such railroads ought to be constructed and operated. (*Thus amended, chap. 483, Laws of 1890.*)

**Id.; service of notice; commissioners to be appointed; vacancies.**

§ 5. Notice of such application shall be served personally upon each property owner not having given his consent by delivering the same to him or his agent or representative, as such owner, agent or representative appears upon such assessment-roll of the city or town in which the property is situated; or by mailing the same, properly folded and directed, to such owner, agent or representative, at the post-office nearest his usual place of residence, with the postage paid thereon, at least ten days prior to such application. If the person on whom such service is to be made is unknown, or his residence is unknown, and cannot by reasonable diligence be ascertained, no service of such notice, personally or by mail, need be made. And said general term of the Supreme Court to which such application is made, upon due proof of the service aforesaid, shall appoint three disinterested persons, who shall act as commissioners, and said commissioners, within ten days after their appointment, shall cause public notice to be given of their first sitting, in the manner directed by said general term, and may adjourn from time to time until all their business is completed. Vacancies may be filled by said general term, after such notice to persons interested as it may deem proper to be given, and the evidence taken before as well as after the occurring of the vacancy shall be deemed to be properly before said commissioners.

**Commissioners to determine whether road ought to be constructed to be confirmed by court; taken in lieu of consent of property owners shall be made within sixty days unless extended.**

§ 6. The said commissioners shall determine, after such public hearing of all parties interested, whether such railroad ought to be constructed and operated, and shall make a report thereon, together with the evidence taken, to said general term, and their determination that such road ought to be constructed and operated, confirmed by said court, shall be taken in lieu of the consent of the property owners before mentioned. Such report shall be made within sixty days after appointment of said commissioners, unless the said court or judge thereof shall, for good cause, shown, extend such time.

§ 7. (Repealed.) See chap. 642, Laws of 1886, § 5.

**In cities having population of 250,000 or more, corporation to pay percentage of gross receipts into city treasury; in other incorporated cities or villages where company or corporation fail to pay such percentage, verified report to be made; forfeiture; false report; punishment therefor.**

§ 8. Every incorporation incorporated under, or constructing or operating a railroad constructed or extended under the provisions of this act, within the cities of the State having a population of 250,000 or more, as aforesaid, shall for and during the first five years after the commencement of the operation of any portion of its railroad, annually, on the first day of November, pay into the treasury of said respective cities, in which its road is located, to the credit of the sinking fund thereof, three per cent of its gross receipts for and during the year ending the next preceding the first day of September, and after the expiration of said five years make a like annual payment into the treasury of said respective cities for the credit of said sinking funds of five per cent instead of three per cent of said gross receipts; provided, however, that every corporation now existing and operating a street surface railroad which shall extend its tracks



or construct branches therefrom, and operate such extensions or branches under the provisions of this act, or the corporation operating such branches or extensions shall pay such percentages as aforesaid only upon such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension and branches shall bear to the entire length of its tracks. In any other incorporated city or village the local authorities shall have the right to require, as a condition to their consent to the construction, operation or extension of a railroad under the provisions of this act, the payment annually of such percentage of gross receipts, not exceeding three per cent, into the treasury of said city or village, as they may deem proper. In case of extension the amount to be paid shall be ascertained in the manner hereinbefore provided. The company or corporation failing to pay such percentage of its gross earnings, as aforesaid, shall, after said first day of November, pay in addition thereto five per cent a month on such percentage until paid. The president and treasurer of any company required by the provisions of this act to make a payment annually upon its gross receipts shall, on or before the first day of November in each year, make a verified report to the comptroller or treasurer of the city, of the gross amount of its receipts for the year ending the next preceding thirtieth day of September, and the books of said company shall be open to inspection and examination by said comptroller, treasurer or his duly appointed agent, for the purpose of ascertaining the correctness of said report as to said gross receipts. The corporate rights, privileges and franchises acquired under this act, by any corporation which shall fail to comply with all the provisions of this section, shall be forfeited to the people of the State of New York, and upon judgment of forfeiture rendered in a suit brought in the name of the people by the Attorney-General, shall cease and determine. Any person intentionally making a report as herein provided, which shall be false, shall be guilty of perjury.

**Corporation to keep certain portion of streets in repair; when neglected, local authorities may enact ordinances; penalty.**

§ 9. Every such corporation incorporated under, or constructing, extending or operating a railroad constructed or extended under the provisions of this act, within the incorporated cities and villages of this State, shall also whenever and as required and under the supervision of the proper local authorities, have and keep in permanent repair the portion of every street and avenue between its tracks, the rails of its tracks and a space two feet in width outside and adjoining the outside rails of its track or tracks so long as it shall continue to use such tracks so constructed under the provisions of this act. In case of the neglect of such corporations to make such pavement or repairs, the local authorities may make the same at the expense of such corporation, after the expiration of thirty days' notice to do so. The local authorities having charge of streets, avenues, roads or highways in cities and incorporated villages may make such reasonable ordinances or regulations as to the rate of speed, mode of use of tracks, and removal of ice and snow, as the interest and convenience of the public may require. A corporation whose servants or agents willfully or negligently violate such an ordinance or regulation, as aforesaid, shall be liable to such city or village for a penalty not exceeding \$500.

**Within what time road to be built.**

§ 10. In case any corporation incorporated under this act, or seeking to extend its road under the provisions thereof, shall not commence the construction or extension of its road within one year after it has acquired the consent of the local authorities and property owners, or determination of the general term of the Supreme Court as herein required, and shall not complete the same within three years after obtaining such consents its rights, privileges and franchises acquired under the provisions of this act shall cease and determine. During the pendency of legal proceedings the Supreme Court shall have power to extend the period for the performance of any act herein required.

**Compensation of commissioners.**

§ 11. The commissioners provided for in this act, to be appointed by the general term, shall receive the sum of \$10 each per day for each and every day they may be engaged, and the charges, expenses and disbursements of such commissioners shall be paid by the company making the application for their appointment.

**Motive power; approval of Railroad Commissioners requisite to determine kind of; provisions as to consent of property owners.**

§ 12. Any street surface railway company may in any case operate any portion of its railroad by cable or electricity, or by any power, other than locomotive steam power, instead of by animal or horse power, which may be approved by the State Board of Railroad Commissioners and consented to by the owners of one-half in value of the property bounded on that portion of the railroad as to which a change of motive power is proposed; and in case the consent of the property owners cannot be obtained, then the determination of three disinterested commissioners, appointed by the general term of the Supreme Court in the department in which said railroad is located, in favor of such motive power, confirmed by said court, shall be taken in lieu of the consent of said property owners. The provisions of sections three, four, five and six of the act hereby amended shall apply, so far as applicable, to such consents of said property owners and to the proceedings for the appointment and determination of said commissioners and the confirmation of said determination. It shall be lawful for any such railroad company to make any changes in the construction of its road or road-bed at any time rendered necessary by a change in its motive power. (*Thus amended, Laws of 1889, chap. 531. See, also, chap. 432, Laws of 1873, page 421.*)

**Rate of fare; where not to apply.**

§ 13. No company or corporation incorporated under, or constructing and operating a railroad under the provisions of this act, shall charge any passenger more than five cents for one continuous ride from any point on its road, or on any road or line or branch operated by it, or under its control, to any point thereon, or on any connecting branch thereof within the limits of any incorporated city or village. This section shall not be construed to apply to any part of any road heretofore completed, and now in operation, unless such company shall acquire the right to extend such road, or to construct branches thereof under the provisions of this act, in which event its rate of fare shall not exceed its authorized rates prior to such extension.

(As to the city of Buffalo, see chap. 431, Laws of 1886.)

**Not to construct road in street, etc., where other surface road is built without consent of such other road; proviso; commissioners.**

§ 14. Except for necessary crossings, no street surface railroad company shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway in which a street surface railroad is, or shall be lawfully constructed, except with the consent of the company owning and maintaining the same; provided, however, that any two or more railroad companies now existing or hereafter formed under the provisions of this act, may join and unite and use each other's tracks for a distance not exceeding 1,000 feet, whenever the court, upon an application for the appointment of commissioners, next hereinafter provided, shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed as an independent railroad, and that public convenience requires the same, in which event the right of such use shall be given only for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts, as provided in respect to acquiring title to real estate under chapter 140 of the Laws of 1850, entitled "An act to authorize the forma-

tion of railroad corporations, and to regulate the same," and the several acts amendatory thereof; or by the Board of Railroad Commissioners in cases where the companies interested shall unite in a request for such Board to act. Such commissioners, in determining the compensation to be paid for the use by one company of the tracks of another, shall consider and allow for the use of tracks and for all injury and damage to the company whose tracks may be so used.

**Corporation may lease portions of its track to other corporations; restriction.**

§ 15. It shall be lawful for any street surface railroad company or companies to lease, or to transfer its or their right, subject to all its or their obligations in respect thereof, to run upon or to use any portion of its or their railroad tracks, to any other street surface railroad company authorized to run upon such route, upon such terms as may be agreed upon by a majority of the respective boards of directors thereof, subject to approval or rejection by a vote of the majority of the stock represented at meetings of the stockholders of each of such companies, called for that purpose, and held within three months after such agreement shall have been adopted by the several boards of directors. But nothing in this section shall be construed to authorize any railroad company in cities of over 300,000 population to lease its rights or franchises to any other company in said cities which owns and operates a road parallel thereto.

**No road to be constructed under chapter 606, Laws of 1875.**

§ 16. No street surface railroad shall be constructed to run in whole or in part upon the surface of any street or highway under the authority of any commission appointed under the provisions of chapter 606 of the Laws of 1875, entitled "An act further to provide for the construction and operation of a steam railway or railways in counties of the State," or the acts in addition thereto or amendatory thereof.

**Nor upon grounds occupied by public buildings or parks; exception.**

§ 17. No street surface railroad shall be constructed or extended under the provisions of this act upon ground occupied by buildings belonging to any town, city, county or to this State, or to the United States, or in public parks, except in tunnels, to be approved by the local authorities having control of such parks.

See, also, chap. 179, Laws of 1887, as to New York city.

**Repeal; proviso.**

§ 18. All acts and parts of acts, whether general or special, inconsistent with this act, are hereby repealed, but nothing in this act shall revive or make valid for the purposes of this act any consents of property owners or local authorities obtained prior to the passage of this act, or shall interfere with or repeal or invalidate any rights heretofore acquired under the laws of this State by any horse railroad company or affect or repeal any right of any existing street surface railroad company to construct, extend, operate and maintain its road in accordance with the terms and provisions of its charter, and the acts amendatory thereof, or revive any charter which has become lapsed or forfeited, or any pending litigation.

**Power of Legislature, etc.**

§ 19 The legislature may at any time alter, amend or repeal this act

## CHAP. 642, LAWS OF 1886.

AN ACT to amend chapter sixty-five of the laws of eighteen hundred and eighty-six, entitled "An act to secure adequate compensation for the right to construct, maintain, use, operate or extend street railroads in cities and villages."

SECTION 1. Chapter sixty-five of the laws of eighteen hundred and eighty-six is hereby amended so as to read as follows:

Franchise for road must be sold; sale, how conducted; rates of fare, etc.

§ 1. The local authorities of any incorporated city or village, to whom application may be made for consent to the construction, maintenance, use, operation or extension of a street railroad or a railroad or railway for the transportation of passengers, mails or freight, over, upon, under or through any of the streets, roads, avenues, parks or public places in such city or village must provide, as a condition of the said consent to the use of said street, road, avenue, park or public place, that the right, franchise and privilege of using the said street, road, avenue, park or public place, shall be sold at public auction to the bidder who will agree to give the largest percentage per annum of the gross receipts of said company or corporation, with adequate security as hereinafter provided, for the fulfillment of said agreement and for the commencement and completion of such road according to the plan or plans, and on the route or routes fixed for its construction within the time or times hereinafter designated and prescribed therefor, but this agreement shall not release any such road from the percentages required to be paid by chapter 252 of the Laws of 1884, and whenever a sale shall be made of the right to construct and operate a branch or extension of an existing railroad, but one fare shall be exacted for passage over such branch or extension and over the line of road which shall have applied therefor, and if operated by separate corporations, earnings from such joint business shall be divided upon the basis of mileage, in the proportions provided by section eight of chapter two hundred and fifty-two of the Laws of one thousand eight hundred and eighty-four. The legislature expressly reserves the right to regulate and reduce the rate of fare on such railroad or railway. The local authorities of any city or village may give such consent to any applicant therefor duly incorporated and existing under the laws of this State for the purpose of providing street railroad facilities for compensation in said city or village; and the bidder to which such consent may be sold shall be an incorporated railroad or railway company, organized to construct, maintain and operate a street railroad in the city or village for which such consent may be given. Prior to such sale, notice of the time, place and terms thereof, and of the route or routes to be sold, and of the conditions upon which the consent of said local authorities to the construction, maintenance, use, operation or extension of such street railroad or any railroad or railway carrying freight, passengers or mails over, under or upon any of the streets, roads, avenues, parks or public places of any incorporated city or village will be given, shall be published three times a week for at least three weeks in two daily newspapers of said city, to be designated by the mayor of said city, except in cities where two daily papers are not published, then said notices shall be published at least once a week or at least three weeks successively in a newspaper published in said city, to be designated by the mayor. And the local authorities of any incorporated village shall, prior to any sale by them as herein provided, cause the notice above provided for to be published for at least three weeks in a newspaper published in said village, if any there shall

be; if none, then in two daily newspapers published in the city nearest said village. The comptroller or other chief fiscal officer of the cities, and the president of the board of trustees in villages, shall attend and conduct the sale to be made under the provisions of this act, and may adjourn the same from time to time, not exceeding twice for a period not exceeding four weeks in the aggregate, and may cancel the bid if the bidder shall not furnish satisfactory security, and sell the said consent and license in the same manner as above provided. The bidder or bidders to whom the said consent or license shall be sold, shall commence the construction of the said road within one year, and complete the same within three years from the date of sale. The said bidder who may build and operate said railroad, shall at all times keep accurate books of account of the business and earnings of such railroad, which books shall at all times be subject to the inspection of the local authorities of the city or village, and in the event of the failure or refusal of the party or corporation operating or using the railroad to be constructed as aforesaid to pay the rental or percentage of gross earnings agreed upon, then, upon notice to the said party or corporation—of not less than sixty days—the said consent, and right to operate such railroad may be declared forfeited, and the same may be resold to the highest bidder in the manner above provided. Such forfeiture may be decreed or ordered by the judgment of any court having jurisdiction, after the party or corporation shall have opportunity to be heard in their defense. *(Thus amended, chap. 564, Laws of 1889.)*

**When consents shall cease; when not to apply to elevated roads; not applicable to certain surface street roads.**

§ 2. This act shall apply to all applications for consents by such local authorities to construct, maintain, use, operate, or extend such street railroads or railways as aforesaid, made under or in pursuance of any statute, whether such application is hereafter made or may have been heretofore made, but not at the passage of this act finally acted upon by the local authorities; and all consents hereafter given by said local authorities shall cease and determine at the expiration of two years thereafter, and all such consents heretofore given shall cease and determine at the expiration of two years from the date of the passage of this act, unless prior to the expiration of such period or periods the consents of the owners of a sufficient proportion of the property situated on the line of the proposed railroad or railway, or the approval of the general term of the Supreme Court shall have been obtained. None of the provisions of this act, or of chapter sixty-five of the Laws of eighteen hundred and eighty-six, or of chapter six hundred and forty-two of the Laws of eighteen hundred and eighty-six, except the provisions of this section in relation to the determination of the consents of said local authorities shall apply to companies now organized or hereafter to be organized for the purpose of building elevated railroads in counties having less than one million inhabitants nor to street surface railroad companies now organized, or hereafter to be organized, in cities or villages having less than ninety thousand inhabitants, as determined by the United States census of eighteen hundred and eighty. *(Thus amended, chap. 281, Laws of 1889.)*

**Security, nature and form of.**

§ 3. The security required by section one of this act shall be a bond or undertaking in writing and under seal, in such form, condition, amount and sureties as shall be required and approved by the comptroller or other chief fiscal officer of any such city, and by the trustees of any such village.

**Limitation.**

§ 4. This act shall not affect the New York Arcade Railway Company nor the rights possessed by it.

**Repeal.**

§ 5. Section seven of chapter two hundred and fifty-two of the Laws of eighteen hundred and eighty-four entitled "An act to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages," and all amendments of said section, and all acts or parts of acts inconsistent herewith are hereby repealed.

**CHAP. 271, LAWS OF 1886.**

**AN ACT** in relation to the consents of property owners, order of the general term confirming reports of commissioners and the consents of the local authorities heretofore given to the construction and operation of street surface railroads by companies which have been dissolved or annulled, or whose charter may have been repealed by legislative enactment.

**Dissolution of company not to revoke consent of owners.**

**SECTION 1.** Whenever any street surface railroad company shall have been dissolved or annulled, or its charter repealed by an act of the legislature, the consent of the owners of property bounded on and the consent of the local authorities having the control of that portion of a street or highway upon which the railroad of such company shall have been theretofore constructed and operated, and the order of the general term confirming the report of any commissioner that such railroad ought to be constructed or operated, shall not, nor shall either thereof, be deemed to be in any way impaired, revoked, terminated, or otherwise affected by such act of dissolution, annulment or repeal, but the same and each thereof shall continue in full force, efficacy and being for the uses and purposes herein mentioned.

**Right to further enjoyment to be sold.**

§ 2. The right to the further enjoyment and the use, subsequent to said act of dissolution, annulment or repeal, of the said consents and orders and of each thereof, and of all the powers, privileges and benefits therein or thereby created shall be sold at public auction by the municipal authorities within whose jurisdiction such railroads shall be, in the same manner as is provided by section one of chapter sixty-five of the Laws of eighteen hundred and eighty-six, and laws amendatory thereof.

**Rights of purchaser on resale.**

§ 3. When such sale shall have been so made, the purchaser thereof shall have the right to the further enjoyment and use of said consents and orders, and of each thereof, and of all the powers, privileges and benefits therein or thereby created in like manner as if such purchaser had been originally named in such consents, reports and orders; provided, that such purchaser shall be otherwise authorized by law to construct, maintain and operate a street surface railroad within the municipality within which such railroads shall be.

**CHAP. 549, LAWS OF 1888.**

**N ACT** relating to the corporate rights and powers of street surface railroad companies.

**Corporate existence and powers of certain unfinished surface street railroads.**

**SECTION 1.** The corporate existence and powers of every street surface railroad company, which has completed a railroad upon the greater por-

tion of the route designated in its articles of association, within ten years from the date of filing said articles of association in the office of the Secretary of State, and which has operated such completed portion of its said railroad continuously for a period of ten years last past, and is now operating the same, shall continue with like force and effect, as though said company had in all respects and particulars complied with the provisions and requirements of chapter seven hundred and seventy-five of the laws of eighteen hundred and sixty-seven, entitled "An act to amend an act entitled 'An act to authorize the formation of railroad corporations and to regulate the same,'" passed April second, eighteen hundred and fifty, and the amendments thereto.

#### **Rights to operate extensions and branches.**

§ 2. Every such street surface railroad company shall have the right to operate any extensions and branches of its said railroad, now constructed and operated by it, which have been so constructed and operated by it, for a period of ten years last past with like force and effect, as though the route of said extensions and branches were designated in its articles of association.

#### **Consent of local authorities and property owners necessary to the operating of such roads.**

§ 3. Every such street surface railroad company is authorized to operate its said railroad, and any extensions or branches thereof, upon condition that it has heretofore, or shall hereafter first obtain the consent of the local authorities having the control of the portion of the streets, avenues or highways included in said railroad, or any extension or branches thereof, to the construction or operation of the same, and also upon the condition that it has heretofore or shall hereafter first obtain the consent of the owners of one-half in value of the property bounded on the portion of the streets, avenues or highways included in the route of said railroad, or any extensions or branches thereof, to the construction or operation of the same, or in case the consent of such property owners cannot be obtained, the general term of the Supreme Court, in the district in which said railroad, or any extension or branch thereof is located, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

#### **Consent heretofore made confirmed.**

§ 4. All consents heretofore given, or grants, made by local authorities having control of the portion of any street, avenue or highway included in the route of said railroad, or any extension or branches thereof, to any such street surface railroad company, are hereby ratified and confirmed and declared valid. All consents of such local authorities in cities whose population did not exceed one hundred and sixty thousand, as shown by the official census taken in the year one thousand, eight hundred and eighty, to the right, franchise and privilege of using any street, road, avenue, public place, which have been, prior to the year one thousand, eight hundred and eighty-nine, sold under the provisions of chapter sixty-five of the laws of eighteen hundred and eighty-six, or of any act amendatory thereof, are hereby ratified, confirmed and vested in any and all purchasers thereof, who shall have entered upon the construction of the routes sold and otherwise complied with the provisions of such act. Nothing herein contained shall affect any action or proceeding now pending. (*Thus amended, chap. 543, Laws of 1890.*)

#### **Act not applicable to New York city, nor to special grants.**

§ 5. This act shall not affect nor apply to any railroad company in the city of New York; nor to any special grant made to or authority conferred upon any street surface railroad corporation by any law of this State; nor shall it impair existing rights, privileges or franchises of any street surface railroad company; nor shall it affect any pending litigation.

## CHAP. 305, LAWS OF 1885.

**AN ACT** authorizing street surface railroad companies to contract with each other, and providing for a proper system of transfer of passengers.

**Street surface roads may contract with each other.**

SECTION 1. It shall be lawful hereafter for any street surface railroad company, or any corporation owning or operating a street surface railroad or railroad route, to contract with any other such company or corporation for the use of their respective roads or routes, or any portion thereof, subject to the provisions, restrictions and conditions hereinafter stated, and thereafter to use or to permit the use of the same in such manner as may be prescribed in such contract. But nothing in this act shall authorize the road or route of any railroad corporation to be used or operated by any other railroad corporation in a manner inconsistent with the provisions of the charter of the corporation whose railroad or railroad route is to be used or operated under such contract.

**Directors may enter into lease or contract.**

§ 2. The directors of the companies may enter into such a lease or contract under the corporate seal of each company, such lease or agreement prescribing the terms and conditions thereof.

**Agreement to be submitted to vote of stockholders; lease to be filed and recorded; portions of routes may be abandoned in certain cases.**

§ 3. Such lease or agreement shall be submitted to the stockholders of each of the said companies or corporations, at a meeting thereof, called separately for the purpose of taking the same into consideration; due notice of the time and place of holding said meeting, and the object thereof shall be given by each company to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such company stands on the books thereof, at the address of such persons as stated on such books, or as known to the secretary of the company, and delivered or mailed to such persons or the legal representatives of such persons respectively, at least thirty days before the time of holding the meeting of such company, and also by a general notice published daily for at least four weeks in some newspaper last designated for the publication of the session laws, or of judicial proceedings and legal notices in the county where such company has its principal office or place of business; and at the said meeting of stockholders the agreement of the said directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holders thereof to one vote, and said ballot shall be cast in person or by proxy, and if two-thirds of all the votes of stockholders cast in person or by proxy at such meeting shall be for the adoption of said lease or agreement, then that fact shall be certified thereon by the secretaries of the respective companies under the seal thereof, and the lease or agreement so adopted, or a certified copy thereof, shall be filed and recorded in the office of the Secretary of State, and shall, from the time of such filing, be deemed and taken to be the lease or agreement of the said companies; a copy of the said lease or agreement, duly certified by the Secretary of State, under his official seal, shall be evidence thereof in all courts and places. Any company being the lessee or lessor, or both, or having the right to use the route or portion of the route of another company pursuant to a lease or agreement entered into as above provided may declare relinquished and abandoned any portion of its own route which it may deem no longer necessary for the successful operation of its road and convenience of the public in consequence of such lease or contract. Such declaration of abandonment to be valid shall be adopted by the board of directors under the seal of such company and shall be submitted to the stockholders thereof at a meeting called and conducted in the same manner as above provided for meetings to pass on such lease or agreement, and if the votes of two-thirds in amount of all the stockholders of the company, cast as above provided, in respect authorizing a lease or contract, shall be for the ratification and adoption of said declaration of abandonment, then that fact shall be certified thereon by the secretary of the company under the seal thereof, and the



declaration so adopted shall be submitted for approval to the State Board of Railroad Commissioners, and if approved by them such approval shall be indorsed thereon and the said declaration, so certified and indorsed, shall be filed and recorded in the office of the Secretary of State, and from the time of such filing, such portion of said route designated in such declaration of such company shall be deemed and taken to be abandoned. A certified copy of such declaration shall be presumptive evidence of the facts which it recites and of the regularity of the proceedings resulting in such abandonment. (*Thus amended, chap. 532, Laws of 1889.*)

**Companies contracting shall carry passengers between any two points; one continuous trip for one fare; penalty.**

§ 4. Each and every company entering into any contract under the power conferred by this act shall carry or permit any other party to such contract to carry between any two points on the railroads or portions thereof embraced within such contract, any passenger desiring to make one continuous trip between such points for one single fare not higher than the fare lawfully chargeable by either of such companies for an adult passenger; and each and every such company shall, upon demand and without extra charge, give to each passenger paying one single fare a transfer entitling such passenger to one continuous trip to any point or any portion of any railroad embraced within such contract, to the end that the public convenience may be promoted by the operation of the railroads embraced within such contract to the extent of their inclusion therein substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this section, the company so refusing, and having contracted as aforesaid, shall forfeit to the aggrieved party the sum of \$50, which may be recovered in any court of competent jurisdiction. This act shall not apply to cities having less than 800,000 population.

§ 5. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

#### CHAP. 432, LAWS OF 1873.

**AN ACT** to authorize the use of improved motive power on railroads in any city or county of this State.

**Mayor and common council, etc., may allow use of improved motive power on street railroads.**

SECTION 1. The mayor and common council of any city, the board of trustees of any village, and as to streets or roads outside of any such city or village, the board of supervisors of any county of this State are hereby authorized to permit the use of any improved motive power or motor, for the traction or propelling of cars on any city or street railroad which is or may be constructed and operated by horse-power, within their respective jurisdictions, such permission to be subject to such restrictions, regulations and conditions as the said local authorities may impose, and subject to revocation at any time by the authority granting the same, by a two-thirds vote of its members.

**Increase of fare not authorized.**

§ 2. Nothing contained in this act shall authorize an increase of the rate of fare, nor allow the transportation of freight in any city or allow the use of the ordinary dummy or box-car engine, or of locomotives of the kind now used for the traction of cars on steam railroads of this State. Nothing in this act contained shall affect any contract in relation to the removal of steam power on any street in any city of this State.

#### CHAP. 349, LAWS OF 1882.

**AN ACT** to authorize the use of the tracks of horse railroad in certain cases.

**Railroad companies may use tracks of other roads to make connections.**

SECTION 1. It shall be lawful for any railroad corporation, in this State, whose cars are run and operated by horses on tracks upon the surface of the street, for the purpose of enabling it to connect with and run

operate its cars between its tracks as now run and operated, and a depot or car-house owned by it, to run upon, intersect and use, for not exceeding the distance of 500 feet, the tracks of any other railroad corporation, the cars of which are run and operated in like manner, with the necessary connections and switches for the proper working and accommodation of the cars upon the said tracks and in connection with said depot or car-house.

**Compensation.**

§ 2. Any corporation availing itself of the privileges granted by the first section of this act shall pay therefor such compensation as it may agree upon with the corporation owning the tracks which it is thereby authorized to run upon, intersect and use; and in case the said corporation cannot agree as to the amount of such compensation, the same shall be ascertained and determined by commissioners to be appointed by the Supreme Court as is now provided by law in respect to acquiring title to real estate by railroad corporations.

**Not to affect surface roads in New York city, nor on Washington street in the city of Brooklyn.**

§ 3. This act shall not affect any surface railroad in the city and county of New York, nor shall anything herein contained be construed as authorizing the use or crossing of any railroad tracks now constructed on Washington street in the city of Brooklyn, or the construction, laying and maintenance of any tracks, switches, sidings, connections or turnouts upon said Washington street, or upon any street where it intersects or crosses the same.

**CHAP. 560, LAWS OF 1888.**

**AN ACT to authorize the use of sand upon tracks of street surface railroads in cities of this State having a population of five hundred thousand or more.**

**Use of sand on surface street roads in cities of five hundred thousand or more inhabitants.**

SECTION 1. After the passage of this act it shall be lawful for the owner or operator of any horse or surface street railroad in cities of this State having a population of five hundred thousand or more to place upon the space between the tracks of said road, sand in sufficient limited quantities to prevent the horses traveling thereon from slipping.

§ 2. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

**CHAP. 906, LAWS OF 1867.**

**AN ACT to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, in relation to reports of railroad corporations.**

**Prior act limited.**

SECTION 1. The requirements of section 31 of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, shall not apply to street or horse railroads, except as hereinafter provided.

**Annual report.**

§ 2. Every railroad corporation in this State whose road is operated by horse power exclusively, or by steam dummy cars exclusively, or partly by horse power and partly steam dummy cars, and every such railroad corporation which shall be hereafter organized, shall make an annual report to the State Engineer and Surveyor, of the operations of the year ending on the thirtieth day of September; which report shall be verified by the oaths of the treasurer or president and acting superintendent of the corporation, and be filed in the office of the State Engineer and Surveyor on the first of December in each year, and shall state

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\*So in the original.

(So much of this section as prescribes the form of the report in detail is omitted, another form of report having been prescribed and adopted under the provisions of § 10, chap. 353, Laws of 1882, see page 343.)

(Section 3 amends the General Railroad Act of 1850, § 32.)

#### **Application of act.**

§ 4. The provisions of section 32 of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April second, 1850, as herein amended, shall apply to all railroad corporations referred to in section two of this act.

#### **CHAP. 267, LAWS OF 1880.**

**AN ACT** authorizing individuals, joint-stock associations or corporations engaged in the manufacture of railroad cars to lay down and maintain railroad tracks connecting their manufacturing establishments with existing railroads.

#### **May lay down and maintain railroad tracks; proviso.**

SECTION 1. Any individual, joint-stock association or corporation now or hereafter engaged in the manufacture of railroad cars in this State may lay down and maintain such railroad tracks, not exceeding one mile in length, as shall be necessary to connect such manufacturing establishment with the tracks of any railroad now or hereafter operated in this State; provided they shall obtain the consent of the owners of one-half in value the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the general term of the Supreme Court, in the district in which it is proposed to be constructed, may, upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

#### **Limitation of act.**

§ 2. The provisions of this act shall not apply to the counties of New York and Kings.

#### **CHAP. 452, LAWS OF 1881.**

**AN ACT** to authorize corporations owning canals to construct and operate railroads along side of or in lieu thereof.

#### **Corporation owning canal may construct railroad.**

SECTION 1. It shall be lawful for any corporation of this State owning and operating a canal to construct and operate along or in lieu of such canal a railroad, and the exercise of the authority hereby conferred shall not be deemed to forfeit or impair its corporate rights under its charter or act of incorporation.

#### **Corporate powers.**

§ 2. Such company, in the construction and maintenance of any such railroad under the authority of this act, shall have, possess and enjoy all the powers and privileges contained in an act entitled "An act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, and the several acts amending the same, and be subject to all the duties, liabilities and provisions so far as relates to any powers or privileges by this act upon said company conferred and hereafter exercised.

**Not authorized to construct railroad in any other locality.**

§ 3. Nothing in this act contained shall authorize the construction of any railroad except upon or along such canal owned and operated by any such company, and not in any other locality.

#### CHAP. 140, LAWS OF 1882.

**AN ACT** authorizing individuals, companies, associations and private corporations to construct and operate private railroads in certain cases.

**Lawful to build railroads on or across highway; proviso as to consents to be obtained; act not to apply to villages and cities; must not interfere with or obstruct the public use of any highway.**

SECTION 1. It shall be lawful for any individual company, association or private corporation to build and operate solely for the purpose of conducting the business of such individual, company, association or corporation, a railroad on or across any highway; provided that consent in writing, and under seal, of the owners of all lands on which any such railroad may be built, abutting a highway, be first obtained; and provided further, that the consent in writing of the supervisor of the town in which any railroad proposed to be built under this act is located be also first obtained; and provided further, that this act shall not apply to any city or village; and provided further, that no such railroad shall be so located, graded, built or operated as to interfere with or obstruct the traveled part of any highway, or interfere with or obstruct the public use of any highway, or any highway intersecting the same.

#### CHAP. 582, LAWS OF 1880.

**AN ACT** to provide for excavating and tunneling and bridging for transportation purposes within villages and cities of this State.

**When necessary to build road under ground or under water, company may enter upon and acquire title to lands, may construct masonry foundations, etc.; tunnel to be built so as to leave surface of ground firm and safe; when consent of owners must be obtained; in case owners do not consent general term of Supreme Court may appoint commissioners to determine whether road ought to be built; proviso as to connection with other roads in cities and villages.**

SECTION 1. Whenever according to the route and plans adopted by any railroad company heretofore or hereafter formed under any special act of the Legislature of this State, or under chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and all acts supplementary thereto or amendatory thereof for the building of its railroad, it shall be necessary or proper to build said road, or any part of the same, under ground, or to tunnel or bridge any river or waters, it shall be lawful for said company to enter upon and acquire title to and use such lands under water and uplands, except on or along any canals owned by the State, as shall be necessary for purposes herein mentioned; and they shall have the power to construct, erect and secure the necessary foundations and other structures which may be required for the operating of such road or connecting the same with another, and for maintaining the same, and purchase or acquire, in the manner now provided by law, such land, or rights or easements in land, along their said route upon, over, or beneath the surface thereof, as may be necessary for the building of their said road and making such connections; provided, however, that where said road runs underneath the ground at such depth as to enable said company to tunnel the same, such tunnel shall be so built and at all times kept in such condition as to make the surface of the ground above the same and in the neighborhood thereof, firm and safe for buildings and other erections thereon, and, in case surface

excavations are made, as soon as can be done the surface shall be restored to its former condition, except so far as may be actually required for ventilation of the tunnel beneath the same, or access thereto; and provided, further, that whenever such road, or any part of the same, is intended to be built within the limits of any city or incorporated village of this State and to run by means of a tunnel underneath any of the streets, roads or public places thereof, the said company, before building the same underneath any of said streets, roads or public places, shall obtain the consent of the owners of one-half in value of the property bounded on the line, and the consent of the board of trustees of the village by resolution adopted at a regular meeting and entered on the records of said board, and of the proper authorities having control of said streets, roads or public places or in case such consent of the owners of property bounded on the line cannot be obtained, the general term of the Supreme Court in the district in which such city or village is situated may upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be allowed to be built underneath said street, roads and public places, or any of them, and in what manner the same may be so built with the least damage to the surface and to the use of the surface by the public, and the determination by said commissioners, confirmed by the court, may be taken in lieu of the consent of said authorities and property owners. And provided further, that when any railroad company constructs, under this act, its railroad under any part or within the limits of any city or incorporated village of this State, subject to the provisions and limitations of this act, it shall be lawful for any other railroad company to connect its road therewith at such points or places as such company may elect, and all railroad companies constructing their road or roads under the provisions of this act shall be subject to all the provisions of an act entitled "An act to authorize the formation of railroad companies, and to regulate the same," passed April 2, 1850, and all acts supplementary thereto and amendatory thereof; and further, at such point or points, place or places, where such connection shall be made by connecting roads, the railroad companies owning such roads shall build, at their joint expense, and for their joint use, such passenger and freight depots and other accommodations for handling passengers and freight as may be required for the convenience of the public.

#### **Consolidation with other companies.**

§ 2. Any such railroad company, the greater part of whose road-bed according to its said route and plan is to be below the surface of the ground, and whose road does not exceed three miles in length, may at any time after its said route shall have been adopted, and the map thereof shall have been filed as required by law, merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad company organized under the laws of this or any other State, in the manner now provided by law for the consolidation of railroad companies, whenever the railroads of said companies so to be consolidated may together form a continuous line of railroad; provided such consolidation shall not prevent all connecting railroads from having equal rights of transit for their passengers and freight through the tunnel upon the same equitable terms.

#### **Liability for damages.**

§ 3. All railroad companies constructing any tunnel under this act shall be liable to any person or corporation for all damages which may be sustained by reason of the construction of such tunnel. Whenever it shall be necessary, in constructing any railroad authorized by this act through any city or incorporated village, to alter the position or course of any sewers or water or gas pipes, the same shall be done at the expense of such railroad company or companies, under the direction of the department or corporation having charge thereof, so as not to interfere with said work. In all cases the use of the streets and docks and lands beneath which said railroad is constructed, and on the route thereof, and the right of way beneath the same for the purpose of said railroad, shall be considered and is hereby declared to be a public use consistent with and one of the uses for which its streets, avenues and docks are publicly held.

**Act not to be construed to allow building of surface or elevated roads.**

§ 4. Nothing in this act shall be construed to authorize the building in any city or village of this State of any railroad to run upon the surface of any street or of any elevated railroad not now provided for by law. Nothing in this act shall be construed to repeal or modify any part of chapter 380 of the laws of 1878, entitled "An act relating to the public place or square known as Washington park in the city of New York," or to authorize the use or occupation by any company or companies of any public park or square in any city or village of this State for any of the purposes of this act, or to permit the construction of an open cut railroad in or through any street or public place in any such city or village, but every road constructed under the provisions of this act, in or through any such street or public place, shall be wholly underground, and constructed in a tunnel and not otherwise.

**Repeal.**

§ 5. All acts and parts of acts inconsistent with this act are hereby repealed.

**CHAP. 193, LAWS OF 1884.**

**AN ACT to enable steam railroad companies having a terminus at the harbor of New York, incorporated under the laws of the State of New York, to own boats and operate ferries.**

**Companies may operate ferries ; restriction.**

SECTION 1. Any steam railroad company, incorporated under the laws of this State, with a terminus in the harbor of New York, is hereby authorized and empowered to purchase or lease boats propelled by steam or otherwise, and operate the same as a ferry or otherwise, over the waters of the harbor of New York, to any point distant not more than ten miles from said terminus, but this act shall not be construed so as to affect the rights of the mayor, aldermen and commonalty of the cities of New York or Brooklyn.

**CHAP. 125, LAWS OF 1858.**

**AN ACT in relation to sleeping cars on railroads.**

**Extra fare may be charged ; patentee may place car on road with permission.**

SECTION 1. Any patentee of a sleeping car, or his legal representative, may place his car upon any railroad of this State, with the assent of the company owning such road. Such patentee or his legal representative, may charge for the use of said car, in all cases, to each passenger occupying the same, forty cents, which sum shall entitle such passenger to the use of a berth for 100 miles ; and the said patentee, or his legal representative, may charge at and after the rate of three mills for every additional mile, but in no case shall the charge exceed eighty cents.

**Other cars to be provided.**

§ 2. The railroad companies permitting the use of such cars shall, nevertheless, keep sufficient first-class cars of other kinds for the convenient use and occupation of all passengers not wishing to use a sleeping car. And the tickets used for the use of the sleeping cars shall have plainly written or printed thereon, "sleeping car," and all persons using a sleeping car shall be furnished with such tickets.

**Railroad company not to be interested.**

§ 3. No railroad corporation shall be interested in the additional sum paid for the use of berths in sleeping cars, pursuant to the provisions of this act.

**Railroad company to be liable for injuries.**

§ 4. Nothing in this act contained shall be so construed as to exonerate any railroad company from the payment of damages for injuries in the same way and to the same extent they would be required to do by law if such cars were owned and provided by the company.

the Laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and the several acts amending the same, supplemental thereto, so far as the same are applicable.

**Restrictions as to crossings.**

§ 8. Whenever such tramway, constructed by a company formed under this act, shall cross a railroad, a highway, turnpike, plankroad or canal, such tramway shall be so constructed as not to interfere with the free use of the said railroad, highway, turnpike, plankroad or canal for the purposes for which they were intended.

**Erection of stations, fixtures, etc.**

§ 9. Every corporation formed under this act shall have power and authority to erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and transaction of its business.

**CHAP. 416, LAWS OF 1890.**

**AN ACT** to allow domestic electric light and power corporations to build, maintain and operate by electricity as a motive power, railroads other than street surface railroads and not exceeding twenty miles in length.

SECTION 1. All stockholders of any domestic electric light and power company incorporated under a general law, and having at least five stockholders, and actually carrying on business in this state, may execute and file in the offices in which the original certificates of incorporation thereof are filed, an amended certificate of incorporation, complying in every other respect than as to the number of signers, who shall be not less than five, and as to the number of directors, who shall be not less than five, with the provisions of sections one and two of chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations and to regulate the same," and may also in and by such certificate amend the corporate name of such corporation, by adding before the word "company" in its corporate name the words "and railroad," and upon the filing of such certificate the said corporation shall have the right to build, maintain and operate by electricity as a motive power a railroad not exceeding twenty miles in length and not a street surface railroad, and such corporation shall otherwise be subject to all the provisions of the general railroad laws of the state, and have all the powers, rights and privileges thereby conferred upon railroad corporations.

§ 2. This act shall not apply to any railroad now located in whole or in part or hereafter to be located in any city in this state.

**CHAP. 468, LAWS OF 1881.**

**AN ACT** to authorize the formation of corporations for the purpose of acquiring, constructing and operating railroads in foreign countries.

**Corporators and corporate objects.**

SECTION 1. Any number of persons, not less than ten, a majority of whom shall be inhabitants of this State, may form a company for the purpose of constructing, maintaining and operating in any foreign country a railroad.

or railroads for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any railroad or railroads, already constructed in whole or in part, for the like public use, with power to construct, maintain and operate in connection with such railroad or railroads a line or lines of telegraph, and such lines of steamboats or sailing vessels as may be proper or convenient for use in connection therewith; and for that purpose may make and sign articles of association in the form provided by section two of this act; and upon complying with the provisions of the said section shall, with their associates and successors, be and remain a corporation for the purposes aforesaid, with the powers given by this act and by the laws of this State.

**Articles of association to be approved by the Governor. etc.; form of certificate.**

§ 2. The articles of association, mentioned in the preceding section, shall state the name of the company; the number of years the same is to continue, not exceeding the term of one hundred years; as far as practicable the places from and to which the said line or lines shall be constructed, maintained and operated; the amount of the capital stock of the company and the number of shares of which such capital stock shall consist, and the names and places of residence of not less than seven persons, who shall act as a board of directors for the management of the affairs of the company for the first year and until others are chosen in their places. Each subscriber of such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company. The said articles of association shall, after the approval by the Governor, of the same, be filed in the office of the Secretary of State, who, upon the payment to him of a fee of \$50, shall indorse thereon the date they are filed and record the same in a book to be provided by him for that purpose, and shall issue a certificate substantially in the following form:

**STATE OF NEW YORK:**

Be it known that whereas (names of the subscribers to the articles of association) have associated themselves with the intention of forming a corporation under the name of (the name of corporation) for the purpose of locating, constructing or acquiring, maintaining and operating a railroad or railroads (and telegraph) . . . . . (and shipping lines) (description of the roads, etc., as in the articles of association) and have complied with the statutes of this State in such cases made and provided; now, therefore, I (name of secretary), Secretary of State of the State of New York, do hereby certify that the persons aforesaid, their associates and successors, are legally established as a corporation under the name of (name of corporation) with all the powers and privileges and subject to all the duties, liabilities and restrictions set forth in an act of the Legislature of the State of New York, entitled "An act . . . . . passed the . . . . . day of . . . . . in the year eighteen hundred and eighty-one."

In witness I have hereunto subscribed my official signature and affixed the seal of this State, this . . . . . day of . . . . . in the year . . . . .

.....  
*Secretary of State.*

**Certificate to be recorded.**

§ 3. The certificate executed as provided in the last section shall be recorded with the articles of association, and the original certificate, or a duly certified copy of the record thereof, shall be conclusive evidence of the establishment of the corporation at the date of such certificate.



**Board of directors.**

§ 4. The government and direction of the affairs of every corporation formed under this act shall be vested in its board of directors, who shall hold their offices for one year and until others are elected in their places. In case of a vacancy occurring in such board of directors by death, resignation or otherwise, the remaining members of the board may fill such vacancy. The board of directors shall have power to make, and from time to time to amend the by-laws of the company, and may, by such by-laws, provide that less than a majority of the board shall constitute a quorum, and may delegate any and all of the powers of the board of directors to an executive committee during the interval between the meetings of the board. The directors shall elect one of their number to be president of their board and of the corporation, and may elect such other officers as shall be provided by the by-laws.

**Corporate powers.**

§ 5. Every corporation formed under this act shall, in addition to the powers conferred on corporations under the laws of this State, have the following powers:

1. To expend such sums of money from its treasury as the directors shall deem proper, in making preliminary examinations and surveys for its proposed railroad or railroads, line or lines of telegraphs, and, of steamboats or sailing vessels, and in acquiring from foreign countries, nations or governments, the grants, concessions and privileges as below named.

§ 2. To take and receive from foreign countries, nations and governments, such grants, concessions or privileges for the construction, acquisition, maintenance and operation of railroads, telegraph lines and vessels, as may be consistent with the purposes of the corporation, and as may be granted or conceded to such company, and to hold the same under such restrictions and with such duties and liabilities as may be fixed by the laws of such foreign country, nation or government, or as may be annexed to such grants or concessions.

3. To construct, acquire, maintain and operate the lines of railroad, telegraph and shipping provided for by its articles of association, and to take and convey persons and property on their said transportation lines by the power or force of steam or of animals, or by mechanical or other power, and receive compensation therefor, regulating the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor, in accordance with the laws of the place or country where the same are situated.

4. To take and hold by purchase or by voluntary grant such real estate and other property in foreign countries as may be necessary or convenient for the construction, maintenance and accommodation of its said lines, and to sell and convey, or to mortgage, or to lease such real estate or other property, so acquired in foreign countries; but such corporations shall be subject to such duties, liabilities and restrictions as to the transfer of its property by deed, mortgage, lease or otherwise in foreign countries, as may be fixed by the country in which the same may be located.

5. To purchase, hold and use such real estate and other property in this State as may be necessary for the conduct of its business, provided that such company shall not hold real estate in this State exceeding in value the sum of \$1,000,000.

6. To acquire, by purchase or otherwise, any railroad or railroads line or lines of telegraph constructed or in process of construction any foreign country or countries, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, and also mortgage or to sell and convey to any person or persons or any corporation or corporations created by this or any other State, or any foreign government, the whole or any part of the railroad or railroads, line or lines of telegraph, steamboats, sailing vessels, grants, concessions, f

chises, rights, privileges, immunities, and other property of any sort or description held or owned, or to be acquired by it; provided, however, that the powers of sale in this clause granted shall only be exercised by a majority of the entire board of directors of said corporation, with the concurrence, in writing, of the holders of two-thirds in amount of the capital stock thereof. (*Added by chap. 369, Laws of 1885.*)

**When company may proceed to organize.**

§ 6. Upon the issue of the certificate named in section two, any corporation formed under the provisions of this act may proceed to organize, and for that purpose the first meeting of such corporation shall be called by a notice signed by a majority of the directors named in such articles, stating the time, place and purpose of such meeting, a copy of which notice shall, at least five days before the day appointed for such meeting, be delivered personally to each subscriber, or left at his usual place of business or residence, or deposited in the post-office prepaid and directed to him at his last known post-office address. There shall be recorded upon the minutes of the corporation an affidavit of such service of the said notice.

**When to open subscription books.**

§ 7. When any corporation formed under this act shall have been organized, the board of directors for the time being of such company may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company in such places and after giving such notices as they may deem expedient, and may continue to receive such subscription until the whole capital stock is subscribed. At the time of making subscriptions in pursuance of the provisions of this section, every subscriber shall pay to the directors ten per centum of the amount subscribed by him in money, and no such subscription shall be received or taken without such payment.

**Payment of subscriptions to stock.**

§ 8. The board of directors for the time being of any corporation formed under this act may require the subscribers to the capital stock of the company to pay the amounts by them respectively subscribed, and in such manner and in such installments as they may deem proper. If any stockholder shall neglect to pay any installments as required by resolution of the board of directors, the said board shall be authorized to declare his stock and all previous payments thereon forfeited for the use of the company; but they shall not declare it so forfeited until they shall have given a notice in writing to be served upon him personally or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same, his stock and all previous payments thereon will be forfeited to the use of the company, which notice shall be served as aforesaid at least thirty days previous to the day upon which such payment is required to be made.

**Principal office, etc.; annual meeting; number of directors to be chosen.**

§ 9. Every corporation formed under this act shall maintain its principal office within this State, and shall there have during business hours an officer or agent upon whom service of process may be made, and shall hold in this State at least one meeting of its stockholders in each year, for the choice of directors. Such meeting shall be known as the annual meeting, and shall be held at such time and place as shall be established by the by-laws of such company. At such meeting the stockholders shall fix the number of directors for the ensuing year, which number shall not be less than seven, and in the absence of any other direction by the stockholders, seven shall be chosen.

**1 Meeting of stockholders, etc.**

10. At all meetings of the stockholders of any corporation formed under this act, each stockholder shall be entitled to one vote personally or by proxy on every share held by him thirty days previous to such election. Inspectors of each election shall be appointed by the board of directors

for the time being, or if no such appointment be made by the board, then by the president. No person shall be elected a director, or continue to be such director, unless he shall be a stockholder, owning stock absolutely in his own right, and at every election of directors the books and papers of such company shall be exhibited to the meeting, if a majority in amount of the stockholders present shall require it.

**Reduction or increase of capital stock ; amended articles of association.**

§ 11. Any corporation formed under this act may, from time to time, at any regular or special meeting of the board of directors, reduce the amount of the capital stock or increase the same, or may otherwise alter and amend its articles of association, provided, in either case, that the consent in writing of the stockholders owning two-thirds of the capital stock of the company shall have been first obtained to such increase or diminution of the capital stock, or to such alteration of the articles of association. If any increase or reduction of the capital stock is made, or any other amendment made to the articles of association, a certificate of the fact, signed by the president and secretary of the corporation, shall, within thirty days thereafter, be filed in the office of the Secretary of State. The directors of any corporation organized under this act, in whose original certificate of incorporation any informality may exist, are hereby authorized to make and file amended articles of association to conform to the provisions of this act, and upon making and filing such amended articles of association, such corporation shall, for all purposes, be deemed and taken to be a corporation from the time of the filing of the original articles.

**Stock to be personal estate.**

§ 12. The stock of every corporation formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company; but no share shall be transferable until all previous calls thereon shall have been fully paid in, and it shall not be lawful for such company to use its funds in the purchase of any stock of its own or any other corporation, except so far as the same may be agreed upon in its articles of association.

**Subject to taxation.**

§ 13. All corporations formed under the provisions of this act shall be subject to taxation upon the amount of the real or personal property owned by such corporations within this State.

**CHAP. 361, LAWS OF 1883.**

**AN ACT** to amend chapter 119 of the Laws of 1875, entitled "An act to amend chapter 146 of the Laws of 1872, entitled 'An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof.' "

**Corporations may acquire and hold real estate in other States and foreign countries.**

SECTION 1. Section one of chapter one hundred and nineteen of the Laws of eighteen hundred and seventy-five, entitled "An act to amend chapter one hundred and forty-six of the Laws of eighteen hundred and seventy-two, entitled 'An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof,' " is hereby amended so as to read as follows:

§ 1. Section one of chapter one hundred and forty-six of the Laws of eighteen hundred and seventy-two, entitled "An act to authorize corporations to hold and convey real estate for business purposes, in other States, with the consent thereof," is hereby amended as follows:

§ 1. It shall be lawful for any corporation organized under the law of this State, and transacting business in it and other States, or for corporations in other States or foreign countries, to acquire, hold and convey in other States or foreign countries, with the consent thereof, such real estate as shall be requisite for such corporation, in the convenient transaction of

its business, and to invest its funds in the stocks, bonds or securities of other corporations owning lands situated in this State or such States, provided that loans shall not be made on any stocks upon which dividends shall not have been declared continuously for three years, immediately before such loans are made; and provided further that such stocks shall be continuously of a market value twenty per cent greater than the amount loaned or continued thereon.

**Repeal.**

§ 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

**CHAP. 450, LAWS OF 1887.\***

**AN ACT** extending to corporations organized under the laws of other States, and doing business within this State, the right to hold, purchase and convey real estate.

**SECTION 1.** It shall be lawful for any corporation duly organized under the laws of any other State of the United States of America, doing business in this State, to hold and purchase such real estate or interest in real estate within this State as is or shall be necessary for the use and corporate purposes of such corporation in the transaction of its business within this State, and to convey the same by deed or otherwise in the same manner as though such corporation had been organized under the laws of and located within this State.

**CHAP. 322, LAWS OF 1870.**

**AN ACT** to authorize corporations to change their names.

**Corporation may apply for change of its name.**

**SECTION 1.** Any incorporation, incorporated company, society or association organized under the laws of this State, excepting banks, banking associations, trust companies, life, health, accident, marine and fire insurance companies, may apply at any special term of the supreme court sitting in the county in which shall be situated its chief business office, for an order to authorize it to assume any other corporate name. (*Thus amended by Laws of 1876, chap. 280.*)

**Form of petition; notice of application, how published; of what facts court must be satisfied.**

§ 2. Such application shall be by petition, which shall set forth the grounds of the application, and shall be verified by the chief officer of the corporation. Notice of such application shall be published for six weeks in the State paper and in a newspaper of every county in which such corporation shall have a business office, or, if it have no business office, of the county in which its principal corporate property is situated, such newspaper to be one of those designated to publish the session laws; and it must appear to the satisfaction of the court that such notice has been so published, and that the application is made in pursuance of a resolution of the directors, trustees or other managers of the corporation applying.

**Power of court to make order; copy of order, where to be filed; same to be published.**

§ 3. If the court to which such application is made shall be satisfied, by such petition, so verified, or by other evidence, that there is no reasonable objection to such corporation changing its name, it may make an order authorizing it to assume the prescribed new corporate name. A copy of said order shall be filed in the office of the Secretary of State and with the county clerk of every county in which said corporation has a business office, or, if it have no business office, of the county in which its principal corporate property is situated, and be published at least once in each week

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\*This act seems broad enough by its term to cover railroad corporations, but there may be some doubt whether such was the intent of the Legislature.—*R. R. Commissioners.*

for four weeks in some newspaper in every county where such corporation has a business office, or if it have no business office, in the county in which its principal corporate property is situated, such newspaper to be designated by the court.

**Change of corporate name, when to take effect.**

§ 4. When the requirements of this act shall have been complied with, the corporation applying for a change of name may, from and after the day specified in the order of the court, be known by and use the new corporate name designated in the order of the court.

**Change of name not to affect pending suits, etc. ; obligations and actions, how enforced or continued.**

§ 5. No suit or legal proceeding commenced by or in behalf of or against any corporation shall abate by reason of a change of its corporate name made as herein authorized. Such change of the corporate name of the said corporation or company shall in no way affect the rights or liabilities of said corporation or company. All obligations of said company or corporation may be enforced against said corporation or company in the changed name, and all actions and proceedings commenced and pending against said corporation or company at the time said corporate name is changed shall be continued in the name in which said action or proceedings were commenced, or the court may, on the application of either party, allow the action or proceeding to be continued in the corporate name to which said corporation or company has been changed.

**CHAP. 378, LAWS OF 1883.**

**AN ACT in relation to receivers of corporations.**

**Application for appointment of receiver, where made.**

SECTION 1. Every application hereafter made for the appointment of a receiver of a corporation shall be made at a special term of the court held in and for the judicial district in which the principal business office of the corporation was located at the commencement of the action wherein such receiver is appointed, or in and for a county adjoining such district, and any order appointing a receiver, otherwise made, shall be void.

**Compensation.**

§ 2. Every receiver shall be allowed to receive, as compensation for his services as such receiver, five per centum for the first \$100,000 received and paid out, and two and a half per centum on all sums received and paid out in excess of the said \$100,000. But no receiver shall be allowed or shall receive, from such per centages or otherwise, for his said services for any one year, any greater sum or compensation than \$12,000, nor for any period less than one year more than at the rate of \$12,000 per year, provided that where more than one receiver shall be appointed, the compensation shall be divided between such receivers. (*Thus amended, chap. 275, Laws of 1886.*)

**Order appointing receiver to designate place of deposit.**

§ 3. All orders appointing receivers of corporations shall designate therein one or more places of deposit, wherein all funds of the corporation not needed for immediate disbursement shall be deposited, and no deposits or investments of such trust funds shall be made elsewhere, except upon the order of the court upon due notice given to the Attorney General.

**Duties of receiver.**

§ 4. It shall be the duty of every receiver of an insurance, banking, railroad corporation, or trust company, to present every six months to special term of the Supreme Court, held in the judicial district where the place of trial or venue of the action or special proceeding in which was appointed may then be, on the first day of its first sitting, after expiration of said six months, and to file a copy of the same, if a receiver

of a bank or trust company, with the bank superintendent; if a receiver of an insurance company, with the superintendent of insurance, and in each case with the Attorney-General, an account exhibiting in detail the receipts of his trust, and the expenses paid and incurred therein during the preceding six months; and it shall be unlawful for any receiver of the character specified in this section to pay to any attorney or counsel any costs, fees or allowance until the amounts thereof shall have been stated to the special term in this manner, as expenses incurred, and shall have been approved by that court by an order of the court duly entered; and any such order shall be the subject of review by the general term and the Court of Appeals on an appeal taken therefrom by any party aggrieved thereby. Of the intention to present such account, as aforesaid, the Attorney-General shall be given eight days' notice in writing, and the Attorney-General shall examine the books and accounts of such receiver at least once every twelve months. (*Thus amended by chap. 40, Laws of 1885.*)

**Intervenor to pay his own legal expenses; no allowance to be made for costs to attorney.**

§ 5. In case of the intervention of any policy-holder or depositor, by permission of the court, such policy-holder or depositor shall defray the legal expenses thereof, and no allowance shall be made for costs or fees to any attorney of such policy-holder or depositor.

**Receiver to close up affairs within one year.**

§ 6. The affairs of every insolvent corporation now in the hands of any receiver shall be fully closed up by the receiver thereof within one year from the passage of this act, unless the court, upon application by said receiver, and upon due notice to the Attorney-General, shall give additional time for that purpose.

**Attorney-General may apply to have receiver removed; appeal.**

§ 7. The Attorney-General may, at any time he deems that the interests of the stockholders, creditors, policy-holders, depositors or other beneficiaries interested in the proper and speedy distribution of the assets of any insolvent corporation will be subserved thereby, make a motion in the Supreme Court at a special term thereof, in any judicial district, for an order removing the receiver of any insolvent corporation and appointing a receiver thereof in his stead, or to compel him to account, or for such other and additional order or orders as to him may seem proper to facilitate the closing up of the affairs of such receivership, and any appeal from any order made upon any motion under this section shall be to the general term of said court of the department in which such motion is made.

**Copies of all papers to be served on Attorney-General.**

§ 8. A copy of all motions and all motion papers, and a copy of any other application to the court, together with a copy of the order or judgment to be proposed thereon to the court, in every action or proceeding now pending for the dissolution of a corporation or a distribution of its assets, or which shall hereafter be commenced for such purpose, shall, in all cases, be served on the Attorney-General, in the same manner as provided by law for the service of papers on attorneys who have appeared in actions, whether the applications but for this law would be *ex parte* or upon notice, and no order or judgment granted shall vary in any material respect from the relief specified in such copy or order, unless the Attorney-General shall appear on the return day and have been heard in relation thereto; and any order or judgment granted in any action or proceeding aforesaid, without such service of such papers upon the Attorney-General, shall be void, and no receiver of any such corporation shall pay to any person any money directed to be paid by any order or judgment made in any such action or proceeding, until the expiration of eight days after a certified copy of such order or judgment shall have been served as aforesaid upon the Attorney-General.

**here applications under this act to be made; venue changed.**

§ 9. All applications to the court contemplated by this act shall be made in the judicial district where the principal office of the insolvent corpora-

tion was located; and the venue of all actions or proceedings now pending, not in the judicial district where the principal office of the insolvent corporation was located, are hereby changed and transferred to the county and judicial district where such principal office was located.

**Preference on calendar.**

§ 10. All actions or other legal proceedings and appeals therefrom, or therein brought by or against a receiver of any of the insolvent corporations referred to in this act, shall have a preference upon the calendars of all courts next in order to actions or proceedings brought by the people of the State of New York.

**Repeal.**

§ 11. All acts or parts of acts inconsistent herewith are hereby repealed.

**CHAP. 285, LAWS OF 1884.**

**AN ACT** to provide for the transfer of securities and property by bankrupt corporations to the receivers of such corporations, and for the transfer by the Superintendent of the Insurance Department to receivers of insolvent life insurance and annuity companies of funds and securities deposited with such Superintendent by such company for the security of policy-holders.

**Where receivers have or shall be appointed for any corporation other than insurance companies on application by Attorney-General, property to vest in receiver; proviso.**

**SECTION 1.** In all cases where receivers have been or shall be appointed for any corporation of this State other than an insurance company, on application by the Attorney-General, all property, real and personal, and all securities of every kind and nature belonging to such corporation, no matter where located or by whom held, shall be transferred to, vested in and held by such receiver; provided, however, that such transfer shall only be made when directed by an order of the Supreme Court, due notice of the application for such order having been made on the Attorney-General, and the custodian of the funds, securities or property.

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**CHAP. 376, LAWS OF 1885.**

**AN ACT** to provide for the payment of wages to employees, operatives and laborers of domestic corporations, other than insurance and moneyed corporations, of which a receiver shall be appointed.

**Wages of employees to be preferred.**

**SECTION 1.** Where a receiver of a corporation created or organized under the laws of this State and doing business therein, other than insurance and moneyed corporations, shall be appointed, the wages of the employees, operatives and laborers thereof shall be preferred to every other debt or claim against any such corporation, and shall be paid by the receiver from the moneys of such corporation which shall first come to his hands.

**CHAP. 310, LAWS OF 1886.**

**AN ACT** to provide for the winding up of corporations which have been annulled and dissolved by legislative enactment.

**Duty of Attorney-General.**

**SECTION 1.** Whenever any corporation organized under the laws of this State shall be annulled and dissolved by an act of the Legislature, it shall

be the duty of the Attorney-General immediately thereafter to bring a suit to wind up and finally settle and adjust the affairs of such annulled and dissolved corporation.

**Suit, where to be brought.**

§ 2. Such suit shall be brought in the Supreme Court in the name of the people of the State, in any county which the Attorney-General may select. The president, or vice-president, or secretary, or treasurer of such dissolved corporation, who may have been in office at the time of the dissolution thereof, shall be named, as such officer, as defendant in such suit, and the summons and complaint therein shall be served upon him. If, at the time of such annulment and dissolution, there shall not be one of the above designated officers of such corporation, then such suit shall be brought against and the summons and complaint therein served upon any one of the persons who were last acting as directors of such corporation.

**Court to appoint receiver.**

§ 3. It shall be the duty of the special term of the Supreme Court in the county designated in such summons and complaint, or of any judge of said court who resides in the judicial department in which such county is situated, upon the presentation of a certified copy of the act of the Legislature annulling and dissolving a corporation, and of the summons and complaint founded thereon, immediately to appoint a receiver of the assets and property of such dissolved corporation; and the person so appointed shall be both the temporary and permanent receiver thereof, and shall give a bond with sureties, to be approved by said court or such judge thereof, to the people of the State in the penalty of not less than \$10,000, conditioned for the faithful discharge of his duties as such receiver, and for his due accounting for, and paying over all moneys and property which may come to his hands as such receiver. No one of the officers, directors or stockholders of such corporation shall be appointed such receiver thereof.

**Receiver to make inventory.**

§ 4. Such receiver shall, immediately after his appointment and the approval of his bond, cause an inventory of all the property of such dissolved corporation to be taken and filed in the office of the clerk of the county in which such action is pending, and for the purpose of ascertaining the nature, extent and location of such property, the said receiver shall have power to compel the attendance of witnesses, as hereinafter provided, and all evidence taken by or before said receiver in relation to such property shall be filed by him in the office of such county clerk.

**Notice to creditors; powers and duties of receiver; creditors to present claims.**

§ 5. The said receiver shall, immediately after his appointment, publish in two newspapers to be designated by said court, or such judge thereof, daily for one week, and for such longer time, not exceeding one month, as the said court or such judge thereof may by order designate, a notice to all creditors of such dissolved corporation to present their claims and demands against, and all evidences of indebtedness of such dissolved corporation, to such receiver at a time and place to be designated in such notice. Such receiver is hereby authorized to examine on oath any of such creditors, or claimants, or other witnesses, as to any and all matters pertaining to any claim or demand or evidence of indebtedness so presented. At the expiration of ten days from the date specified in such notice, or within such further time as may be allowed by said court or such judge thereof, the said receiver shall make a list of all the claims presented to or proved before him, in which list he shall specify the amount, origin and true consideration of each claim so presented to or proved before him, and the name of the person in whose behalf the same is presented or proved, and the date when such claimant became the true owner thereof. Such list when so completed shall be verified by such receiver, and shall thereupon be filed, together with such evidence as may have been taken by him, in the office of the said county clerk. The said receiver shall, immediately after such filing, publish a notice daily for



fourteen days in two newspapers to be designated by said court, or such judge thereof, stating that such list will be presented to such court, or to a judge thereof, residing in such county, on a day and at a place to be designated in such notice, and the said court or such judge thereof will then and there be asked for an order directing the sale at public auction of all the property specified in such inventory. Any creditor or stockholder may appear and be heard at such time and place. It shall be the duty of said court, or of such judge thereof, to whom such list shall be presented, to examine the same, together with such evidence as the receiver shall have taken, and to reject all claims, demands and evidences of indebtedness which were not legally incurred or created by said corporation, or which were in excess of its powers, or which are for any reason shown to be illegal; and no claim or demand shall be allowed for any greater amount than the money value of the consideration therefor, unless the said court or judge shall find and decide from the evidence taken by and before the receiver, that the person professing to own such claim does in truth own the same by reason of having taken a negotiable instrument or paper before the act dissolving and annulling the corporation alleged to be bound by such instrument or paper, and also before such instrument or paper was by its terms due, and that the same was taken for value paid, and parted with in good faith before said act of dissolution, and without knowledge or notice of any defect, want or deficiency of previous consideration, or other equity, off-set or defense originally attaching to such instrument or paper, or to the claim or demand upon which the same are founded. Such examination and rejection shall be made by such court or such judge thereof, and not by any referee.

**When claim of creditor is debarred; right of creditor to appeal; sale of property; allowance to receiver; distribution of assets.**

§ 6. All creditors whose claims shall not have been presented as above provided shall be debarred from participating in the avails of the sale of the property described in said inventory. Any creditor whose claim may have been rejected, and who shall have appealed, may apply to said court or such judge thereof for an order that a pro rata amount of the avails of such sale which would have appertained to the claim of such creditor, had not the same been rejected, may be retained in court to abide the result of his appeal, and said court, or such judge thereof, shall have discretion to grant the same. Any claimant feeling aggrieved by such rejection may appeal therefrom to the general term and to the Court of Appeals, in the manner now provided by law for such appeals from orders in civil actions, but neither of such appeals shall stay the proceedings of such receiver or court, or judge thereof, or a sale of such property as herein provided for. The amount of all claims and demands so rejected by said court or such judge shall be deducted from the total amount of claims and demands so filed by the said receiver, and an entry of such rejection shall be made upon said list by said court or such judge, and thereupon the said court or such judge shall by order, reciting the proceedings direct the immediate sale by said receiver, at public auction, at a time and place and in the manner, and after such notice as may be provided in said order, of all the property in said inventory specified, to such person, firm or corporation as shall bid the highest sum or amount therefor. The receiver shall report to said court or such judge thereof, the name of the highest bidder, the amount bid, and thereupon said court or such judge thereof shall by order forthwith direct the said receiver by proper written instrument to convey and transfer all of the property described in said inventory, and offered for sale at said auction, to said highest bidder, who on receiving the same shall pay to the receiver the sum bid. The said court or such judge thereof, shall allow to the receiver two per cent upon the whole amount received by him from the sale of the property described in said inventory for his compensation as such receiver, and also his disbursements, including witness' fees, and the service of subpoenas, and to the Attorney-General, and to such other counsel as the receiver may find it necessary to employ, a reasonable counsel fee. The residue of the amount in the hands of the receiver shall be by him distributed among the owners of the claims in said list, which have been allowed subject to the directions above provided for in case of an appeal, pro rata, or in full.

residue shall be sufficient therefor, and the receipts of such owners therefor shall be taken upon such list of claims. The balance of such residue, if any, shall be distributed among the lawful stockholders of such corporation in proportion to their interest therein.

**Proceedings not to be stayed.**

§ 7. No issue raised by answer, or demurrer, or otherwise to the complaint hereinbefore provided for shall stay the proceedings of the receiver, or court, or a judge thereof.

**Discharge of receiver.**

§ 8. The said receiver after such payment may apply to said court, or a judge thereof for his final discharge, and if it shall appear that the said receiver has in all things fulfilled his duty in the premises, the said court or judge shall grant such final discharge, and said receiver, until so discharged, may as such receiver sue for and collect all debts due, and demands owing to such corporation.

**Subpoenas, by whom issued; receiver may administer oaths; false swearing, perjury.**

§ 9. It shall be the duty of the clerk of the county in which such suit is brought, to issue, upon the request of the receiver, subpoenas to compel the attendance of witnesses to enable him to ascertain the nature, extent and location of the property of said corporation, and to give evidence concerning any claim which may be presented by any creditor against the estate of such corporation, which subpoenas shall be served in like manner as in civil actions, and the fees of the witness shall be the same as are now established by law in such actions. The receiver shall have full power and authority to administer oaths to all such witnesses and to any creditor of such dissolved corporation, and to examine them concerning the property of such dissolved corporation, and as to the claims presented against it. Disobedience to such subpoenas shall be a contempt of court, and shall be punished in like manner as other contempts of court are now punishable. Willful false swearing by any witness or creditor in any such examination shall be deemed perjury, and shall be punishable as such in like manner as if committed by a witness on a trial of a civil action.

**Leave to sue receiver, how and where obtainable.**

§ 10. All applications for leave to sue such receiver and all applications for injunctions to restrain his proceedings, shall be made only to the Supreme Court in the county in which such action was brought, and shall not be made to any other court, or to the Supreme Court in any other county, and shall not be granted except upon eight days' notice to the Attorney-General of the time and place of making such application. In any action hereafter brought or now pending by the Attorney-General, to close up, determine, or settle the affairs of any corporation dissolved by legislative enactment, the judgment or determination of the Supreme Court at General Term may be reviewed upon appeal to the Court of Appeals, as now provided by law, whether the judgment rendered in the case be interlocutory or final. (*Thus amended, chap. 601, Laws of 1887.*)

**Repeal, etc.**

§ 11. This act shall take effect immediately, and all acts and parts of acts inconsistent therewith are hereby repealed.

**CHAP. 133, LAWS OF 1847.**

N ACT authorizing the incorporation of rural cemetery associations.

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I street, road, avenue or thoroughfare to be laid out through a cemetery.

10. The cemetery lands and property of any association formed pursuant to this act, and any property held in trust by it for any of the purposes

poses mentioned in section nine of this act, shall be exempt from all public taxes, rates and assessment, and shall not be liable to be sold on execution, or be applied in payment of debts from any individual proprietor. But the proprietors of lots or plots in such cemeteries, their heirs or devisees, may hold the same exempt therefrom, so long as the same shall remain dedicated to the purposes of a cemetery, and during that time no street, road, avenue or thoroughfare shall be laid out through such cemetery, or any part of the lands held by such association for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the Legislature of the State.

#### CHAP. 403, LAWS OF 1886.

### AN ACT to protect the Chautauqua Assembly Grounds from railroads.

SECTION 1. It shall not be lawful for any railroad or railway company or corporation now existing, or hereafter organized under the laws of this State, or otherwise, to build, construct or operate any railway or railroad in, upon, over or through the grounds, lands or premises now owned by the Chautauqua Assembly corporation, in the town and county of Chautauqua, without first procuring the consent in writing of a majority of the board of trustees or directors of said Chautauqua Assembly corporation in favor thereof.

#### CHAP. 300, LAWS OF 1835.

### AN ACT to enlarge the powers of commissioners of highways.

Lawful for commissioners of highways, having supervision thereof to give written consent for construction across road or highway.

SECTION 1. Whenever any association or individual shall construct a railroad upon land purchased for that purpose, or a route which shall cross any road or other public highway, it shall be lawful for the commissioners of highways, having the supervision thereof, to give a written consent that such railroad may be constructed across, or on such road or other public highway; and thereafter such association or individual shall be authorized to construct and use such railroad across or on such roads or other highways as the commissioners aforesaid shall have permitted; but any public highway thus intersected or crossed by a railroad shall be restored to its former state as not to have impaired its usefulness.

#### CHAP. 62, LAWS OF 1853.

### AN ACT to regulate the construction of roads and streets across railroad tracks.

#### Laying out streets or highways across railroad tracks.

SECTION 1. It shall be lawful for the authorities of any city, village or town in this State, who are by law empowered to lay out streets and highways, to lay out any street or highway across the track of any railroad now laid or which may hereafter be laid, without compensation to the corporation owning such railroad; but no such street or highway shall be actually opened for use until thirty days after notice of such laying out has been served personally upon the president, vice-president, treasurer or a director of such corporation.

Railroad corporations to cause street laid out across their track to be taken at most convenient place for public travel.

§ 2. It shall be the duty of any railroad corporation, across whose track a street or highway shall be laid out as aforesaid, immediately after the service of said notice, to cause the said street or highway to be taken across their track, as shall be most convenient and useful for public travel, and to cause all necessary embankments, excavations and other work to be done on their road for that purpose; and all the provisions of the act

passed April 2, 1850, in relation to crossing streets and highways, already laid out, by railroads, and in relation to cattle-guards and other securities and facilities for crossing such roads, shall apply to streets and highways hereafter laid out.

**Penalty for neglect or refusal.**

§ 3. If any railroad corporation shall neglect or refuse, for thirty days after the service of the notice aforesaid, to cause the necessary work to be done and completed, and improvements made on such streets or highways across their road, they shall forfeit and pay the sum of \$20 for every subsequent day's neglect or refusal, to be recovered by the officers laying out such street or highway, to be expended on the same; but the time for doing said work may be extended, not to exceed thirty days, by the county judge of the county in which such street or highway, or any part thereof, may be situated, if, in his opinion, the said work cannot be performed within the time limited by this act.

**CHAP. 255, LAWS OF 1855.**

**AN ACT to enlarge the powers and duties of commissioners of highways.**

Commissioners empowered to bring action against any railroad corporation to sustain rights of the public in and to any highway; to enforce any duty enjoined upon a railroad corporation; may maintain action for damages.

SECTION 1. The commissioner or commissioners of highways in each of the towns of this State are hereby empowered to bring any action against any railroad corporation that may be necessary or proper to sustain the rights of the public in and to any highway in such town, and to enforce the performance of any duty enjoined upon any railroad corporation in relation to any highway in the town of which they are commissioners, and to maintain an action for damages or expenses which any town may sustain or may have sustained, or may be put to or may have been put to, in consequence of any act or omission of any such corporation in violation of any law in relation to such highway.

**Construction of act.**

§ 2. Nothing in this act shall be construed as in any manner impairing the right of any person or officer to bring any action now authorized by law.

**CHAP. 198, LAWS OF 1876.**

**AN ACT to amend chapter 140 of the Laws of 1850, entitled "An act to authorize the formation of railroad corporations, and to regulate the same."**

(Section 1 amends section 18 of the General Railroad Act.)

**Notice when the land required forms part of street.**

§ 2. Whenever any land required by a railroad company for the purposes of its road is contained in, or forms a part of any street or avenue in any city or village in which the owners of adjoining lands on the line of such street or avenue claim a right of property or the fee thereof, in such case notice to be given of the application for the appointment of commissioners under the special proceedings under the act to acquire title to such land, as well as the notice of hearing before such commissioners, shall be given by the publication of the said notice twice each week, for three weeks, in at least two newspapers published in the county in which such street or village is located, to be designated by the court to which the said application is to be made.

## CHAP. 510, LAWS OF 1880.

**AN ACT to regulate voting by stock and bondholders of railroad corporations.****Inspectors of election to be sworn.**

**SECTION 1.** Before entering upon his duties each inspector of election at a meeting of the stockholders of any railroad company of this State, for the purpose of electing directors thereof, or for any other purpose, shall take and subscribe before some officer authorized to administer oaths, an oath or affirmation that he will well and truly do and perform the duties of the office of an inspector at such election, according to the best of his ability, which oath or affirmation shall be immediately filed in the office of the clerk of the county in which such election shall be held, together with a certificate of the result of the vote taken at such meeting or election.

**Proxies; stockholders prohibited from selling vote or proxy; form of oath; false swearing; perjury; penalty.**

**§ 2.** It shall not be lawful for any person to vote, or to issue a proxy to any other person or persons to vote at any meeting of stockholders or bondholders, or of stockholders and bondholders of any railroad corporation in this State for the election of directors, or for any other purpose, upon any stock or bonds where the certificates for said stock or the said bonds shall not be in the possession or under the control of the person on whose behalf the vote is to be given, and such last mentioned person shall have ceased to retain the title to the stock represented by such certificates or the said bonds as owner in his own right or in his capacity of executor, administrator, trustee, committee, guardian, or otherwise, notwithstanding said stock or bonds may still stand in his name on the books of said corporation. No person having the right to vote upon stock or bonds shall sell his vote or issue a proxy to vote upon such stock or bonds to any person for any sum of money, or any thing of value whatever. Any person offering to vote upon stock or bonds registered or standing in his name shall, if required by any inspector of election, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that in voting at this election I have not, either directly or impliedly, received any promise or any sum of money or any thing of value whatever, to influence the giving of my vote or votes at this election; and that I have not sold or otherwise disposed of my interest in or title to any shares or bonds in respect to which I offer to vote at this election, but that all such shares and bonds still remain in my possession or subject to my control." And any person offering to vote as agent, attorney or proxy for any other person shall, if required by inspector of election, take and subscribe the following oath (or affirmation): "I do solemnly swear (or affirm) that the title to the stock or bonds upon which I now offer to vote is, to the best of my knowledge and belief, truly and in good faith vested in the persons in whose name they now stand, and that the said persons still retain control of the said shares and bonds, and that I have not, either directly or indirectly or impliedly, given any promise or any sum of money, or any thing of value whatever to induce the giving of the authority to vote upon such stock or bonds to me." The inspectors at any such election are authorized to administer the aforesaid oath or affirmation, and said oath and said proxies shall be filed in the office of said corporation. Any person who knowingly or intentionally shall swear or affirm falsely in taking the oath or affirmation subscribed by this act shall be guilty of perjury. Any person violating of the other provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment not exceeding one year, or by a fine not exceeding \$5,000, or by both such fine and imprisonment.

CHAP. 223, LAWS OF 1884.

**AN ACT** to regulate the rights and duties of officers and directors of railroad corporations.

Officers and directors prohibited from selling or agreeing to sell stock "short."

SECTION 1. No officer or director of any railroad corporation shall sell or agree to sell or be directly or indirectly interested in the sale or agreement to sell, any shares of the stock of the corporation of which he is such officer or director, unless at the time of sale or agreement to sell, he is the actual owner of such shares.

**Violation a misdemeanor; punishment.**

§ 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than six months, or by a fine not exceeding \$5,000, or by both such fine and imprisonment.

CHAP. 489, LAWS OF 1885.

**AN ACT** to protect stockholders of corporations from the wrongdoings of directors in certain cases.

When directors refuse or neglect to adopt by-laws to enable stockholders to hold annual election; acts, etc., of directors holding over, void.

SECTION 1. Whenever the directors named in the articles of association of any corporation organized under any general law of this State neglect or refuse during the first year of the corporate existence to adopt the by-law required by law to enable stockholders to hold the annual election for directors, and where by such neglect the said directors hold over and continue to be directors after the expiration of the first year of the corporate existence, all acts and proceedings of the directors when so holding over, done for and in the name of the company designed to charge upon the company any liability or obligation for the past services of any director so holding over, or for the past services of any officer, or attorney, or counsel appointed by them, and such liability or obligation shall be considered fraudulent and void.

**Cases in which any stockholder may apply for stay of proceedings in action, etc.**

§ 2. When directors of any such association or corporation are so holding over by their wrongful neglect of duty beyond the term for which they were appointed or elected, and an action has been brought against the company by the procurement of any of them to enforce any claim or obligation declared void by the preceding section, and such action is in the interest or for the benefit of any director or directors so holding over, and the company has by their connivance made default in such action, or consented to the validity of the claim or obligation so sought to be enforced against the company, any stockholder of the company may apply to the Supreme Court, by affidavit, setting forth the facts, for a stay of the proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, the Supreme Court may stay such proceedings or set aside and vacate the same, or grant such other relief as to the court may seem proper, and which will not injuriously affect an innocent party, who without notice of such wrongdoings and or a valuable consideration has acquired rights under such proceedings.

**lection of directors; place of meeting, etc.**

§ 3. When the directors of any association or corporation shall neglect or have neglected to adopt a by-law providing for the annual election of directors for sixty days after the first year of the corporate existence, the stockholders thereof may elect directors in the place of the directors holding over in the manner following: Stockholders entitled to vote for direc-

tors of such association or corporation as prescribed by section eight, chapter eighteen, title four, part first of the Revised Statutes, may meet after previous notice in writing given by them to all the stockholders, at least fifteen days before such meeting, of the time and place when and where such meeting will be held, for the purpose of electing directors; and it shall be the duty of any officer or other person having charge of the book or books of the association or corporation containing the names of the stockholders, to allow the same to be examined by any stockholder aforesaid, or his attorney, for the purpose of giving such notice. The place of such meeting shall be the principal office of such company, or in case it has no such office, at the place in this State where its principal business has been transacted, or if access to such office or place is denied, then at some other place to be designated in such notice in the city, town or village where the principal office of such company is or was last located. At such meeting such stockholders shall elect two or more inspectors of election. If at such meeting a majority of the votes cast on stock entitled to be voted on for directors, as prescribed by said section eight, chapter eighteen, title four, part one of the Revised Statutes, shall be voted upon and cast for one ticket for directors, the persons so named and voted for as directors shall thereupon be the directors of such association or corporation until the next annual election and until others are elected and qualified in their stead and without reference to the time when they became stockholders. In the absence at such meeting of the books of the association or corporation, showing who were and are stockholders of the association or corporation, each stockholder, in order to be entitled to vote at such election, shall make or present a statement in writing to be signed and verified by him under oath before a notary public or other person authorized to administer oaths, setting forth the number of shares of the stock of such company standing in his name, on its books and upon which he is entitled to vote as prescribed by the section of the Revised Statutes heretofore referred to, and which is then owned by him and standing on the books of the company in his name, and if known to him he shall also state the whole number of shares of stock issued by said association or corporation at the time when the election ought to have been held, and on filing such affidavit or verified statement with the inspectors, he shall be entitled to vote on such stock so appearing to be owned by him and standing on the books of the company in his name. The inspectors shall return and file such verified statements, together with a certificate of the results of the election, which shall be verified by them, with the clerk of the county in which such election is held, and thereupon the persons so elected shall be the directors of such association or corporation as aforesaid.

#### **Stockholders may adopt by-laws.**

§ 4. The stockholders aforesaid at the meeting authorized by the preceding section, in addition to electing directors as aforesaid, may adopt a by-law providing for the future annual meetings and election of directors; such by-laws shall be adopted in the same manner and by the same number of votes as is above prescribed for the election of directors, and shall have the same effect as if such by-law had been adopted by the directors of the company.

#### **CHAP. 586, LAWS OF 1875.**

**AN ACT** to define the powers and privileges of railroad corporations and to repeal sections 3 and 4 of chapter 278 of the Laws of 1868, entitled "An act in relation to the Erie, New York Central, Hudson River and Harlem Railway Companies."

#### **Postponement of annual election.**

**SECTION 1.** When the time for holding the annual election for the directors of any railroad company is now fixed by any law, charter or by-law for a time within three months before the thirtieth day of September any year, the directors of such company may by resolution, to be published at least thirty days before the time now established for such election,

tion, postpone such election to a time not more than two months after the thirtieth of September then next ensuing, and thereafter the annual election of such company shall be held in each year on the day so designated, and the term of office of the directors of such company, in office when such change is made, shall be extended to the day thus fixed for the next election of directors, and the election of their successors.

**Company may purchase lands and stock in other States for the purpose of securing a permanent supply of fuel.**

§ 2. Any railroad company organized under the laws of this State may purchase, hold and convey lands, or any interests in lands, in any other State through which any part of its railroad is operated, or may purchase, hold and transfer stock in any company organized in another State, owning lands as aforesaid, for the purpose of securing for such railroad in this State a permanent supply of fuel for its use.

#### CHAP. 317, LAWS OF 1881.

**AN ACT to authorize a change, in certain cases, of the time for holding elections in railroad companies.**

**Companies may change time for holding elections.**

SECTION 1. Any railroad company, the time for the annual election of directors in which is now fixed for any day in the month of June, may by a vote of a majority of the stock, either in person or by proxy, thereof to that effect, and filing in the office of the Secretary of State a copy of such proceedings, certified by the secretary of the company under its corporate seal, change the time for holding such annual election to any day in the month of April; provided, however, that the first election held under such resolution shall be held in the month of April which shall precede the time at which such election would otherwise have been held.

#### CHAP. 498, LAWS OF 1885.

**AN ACT to authorize a change, in certain cases, of the time and place for holding elections of railroad companies.**

**Stockholders may change time for holding election of directors.**

SECTION 1. Any railroad company organized under the laws of this State and doing business therein may change the time and place of its annual election for directors of such company by a vote of its stockholders, representing a majority of all the stock of the company, and by filing in the office of the Secretary of State a copy of such proceedings and vote certified by the secretary of the company under its corporate seal; but such change of place shall only be made to an incorporated village or city in the State of New York in which the executive office of such company shall be located; and the change of the time for holding such election shall only be made from the date fixed by its charter or by-laws to some day in the month of December preceding the date or time at which such election would otherwise have been held.



## CHAP. 383, LAWS OF 1883.

**AN ACT** entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling stock and providing for the record thereof."

**Conditional sale, lease or loan of equipment and rolling stock to be invalid as to judgment creditors and purchasers, without notice, unless evidenced in writing and recorded.**

**SECTION 1.** Whenever any railroad equipment and rolling stock shall hereafter be sold, leased or loaned on the condition that the title to the same, notwithstanding the possession and use of the same by the vendee, lessee or bailee, shall remain in the vendor, lessor or bailor, until the terms of the contract as to the payment of the installments, amounts or rentals payable, or the performance of other obligations thereunder shall have been fully complied with, but also providing that title thereto shall pass to the vendee, lessee or bailee on full payment therefor as aforesaid, such contracts shall be invalid as to any subsequent judgment creditor or any subsequent purchaser for a valuable consideration without notice, unless

1. The same shall be evidenced by writing, duly acknowledged before some person authorized by law to take acknowledgments of deeds.

2. Such writing shall be recorded in the same book as mortgages are recorded, in the office of the clerk of the county in which is located the principal office or place of business of such vendee, lessee or bailee within the State, or in the office of the register in counties where there is a register's office.

**Name of vendor, etc., to be on locomotive or car, etc.**

3. Each locomotive or car so sold, leased or loaned shall have the name of the vendor, lessor or bailor, or the assignee of such vendor, lessor or bailor plainly marked upon both sides thereof, followed by the word owner, lessor, bailor or assignee, as the case may be.

**Not to invalidate any contract heretofore made if recorded within ninety days.**

§ 2. This act shall not be held to apply to or invalidate any contract heretofore made of the character described in the first section, but the same shall be and remain valid if recorded within ninety days from the date hereof.

## CHAP. 488, LAWS OF 1885.

**AN ACT** to amend chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices."

**Amending section 2, chapter 315, Laws of 1884.**

**SECTION 1.** Section 2 of chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property credit to be filed in the town clerk's and other offices," is hereby amended so as to read as follows:

**Instruments, where to be filed.**

§ 2. The instruments mentioned in the preceding section shall be in the several towns and cities of this State, where the person to w<sup>h</sup>

such property is so contracted to be sold, if a resident of this State, shall reside at the time of the execution thereof; and if not a resident, then in the city or town where the property so contracted to be sold shall be at the time of the execution of such instrument. In the city of New York such instrument shall be filed in the office of the register of the city, and in the county of Kings in the office of the register of said county. In the several cities of this State other than the cities of New York and Brooklyn, and in the several towns of this State in which a county clerk's office is kept, in such office; and in each of the other towns in this State, in the office of the town clerk thereof. If the conditional vendee be a railroad corporation, the instrument mentioned in the preceding section shall be filed in the office of the clerk of each county through which its railroad is located, or, in counties where there is a register, in the office of the register, and such filing shall be deemed sufficient for all the purposes of this act. Such registers and clerks are hereby required to file all such instruments aforesaid, presented to them respectively for that purpose, and to indorse thereon the time of receiving the same, and shall deposit the same in their respective offices, to be kept there for the inspection of all persons interested.

**CHAP. 225, LAWS OF 1888.**

**AN ACT** further to amend chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices."

**SECTION 1.** Section seven of chapter three hundred and fifteen of the Laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices," as the same was amended by chapter four hundred and eighty-eight of the Laws of eighteen hundred and eighty-five, and by chapter four hundred and ninety-five of the Laws of eighteen hundred and eighty-six, is hereby further amended so as to read as follows:

§ 7. \* \* \* This act shall not apply to railroad equipment or rolling-stock sold, leased or loaned, under a contract which has been or must be recorded pursuant to the provisions of chapter three hundred and eighty-three of the Laws of eighteen hundred and eighty-three, entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling stock, and providing for the record thereof."

**CHAP. 779, LAWS OF 1868.**

**AN ACT** in relation to mortgages executed by railroad companies.

**Chattel mortgages.**

**SECTION 1.** It shall not be necessary to file as a chattel mortgage, any mortgage which has been, or shall hereafter be, executed by any railroad company upon real and personal property, and which has been or shall be recorded as a mortgage of real estate in each county in or through which the railroad runs.

**CHAP. 392, LAWS OF 1875.**

**✓ ACT** for the better security of railroad employees for labor performed.

**on for labor upon rolling stock, track, etc.**

**SECTION 1.** Any person who shall hereafter perform any labor for a railroad corporation shall, on filing with the county clerk of any county in which such railroad corporation is situated, or through which the road of such corporation passes, the notice prescribed by the second section of this , have a lien for the value of such labor upon such railroad track, roll-

ing stock and appurtenances, and upon the land upon which such railroad track and appurtenances are situated, to the extent of the right, title and interest of such railroad corporation in the property existing at the time of filing the said notice.

**When notice to be filed; to be entered by county clerk on "lien docket;" fee.**

§ 2. Within thirty days after the performance and completion of such labor, such person shall file a notice, in writing, with the county clerk of the county where the property is located, specifying the amount of claim, and the corporation against whom the claim is made. The county clerk shall enter the particulars of such notice in a book to be kept in his office, to be called the "lien docket," with the name of claimant, amount claimed, the name of such corporation against which such claim is made, and the date of the filing of the notice, hour and minute. A fee of ten cents shall be paid to said clerk on filing said lien, and said notice, when so filed, shall thereafter operate as an incumbrance upon said property.

**Value of labor to be proved on trial.**

§ 3. Any person performing labor, in availing himself of the provisions of this act, shall, upon the trial, or at the assessment of damages, produce evidence to establish the value of such labor, and that the same was performed for such railroad corporation.

**Lien, how enforced.**

§ 4. Any laborer, performing any work, or assignee thereof, may, after such labor is performed, and the service of the notice required by the first section of this act, bring an action in any of the courts of the county in which said property is situated to enforce said lien, requiring such railroad corporation to appear, by attorney, within thirty days after such service and answer the same, or, in default thereof, the claimant may take judgment for the amount of claim and costs.

**Lien to continue one year.**

§ 5. Every lien created under the provisions of this act shall continue until the expiration of one year, unless sooner discharged by the court or some legal act of the claimant in the proceedings; but when a judgment is entered therein, and docketed with the county clerk within said year, it shall be a lien upon the real property of the railroad corporation against whom it is obtained to the extent that other judgments are now made a lien thereon.

**Priority of liens.**

§ 6. The liens created and established by virtue of the provisions of this act shall be paid and settled according to the priority of the notice filed with the county clerk, as directed by the second section hereof.

**Liens, how discharged.**

§ 7. All liens created by this act may be discharged as follows:

1. By filing with the county clerk a certificate of the claimant, or his successors in interest, acknowledged or proved in the same manner as a conveyance of real estate, stating that the lien has been paid or discharged; or

2. By depositing with the court or clerk of the court a sum of money equal to double the amount claimed, which money shall be thereupon held subject to the determination of the lien; or

3. By an entry of the county clerk, made in the book of liens, that the proceedings on the part of the claimant have been dismissed by the court in which it is brought, or a judgment rendered against the said claimant; or

4. By an affidavit of the service of a notice from such railroad corporation, or its attorney, to the claimant, requiring such claimant to commence an action for the enforcement of said lien within twenty days after service of said notice, and the failure of said claimant to commence an action as aforesaid.

**Personal liability of stockholders; notice; time for commencing action.**

§ 8. Each and all the stockholders of such corporation shall be jointly and severally liable for the debts due or owing to any of its laborers or servants, other than contractors, for personal service for ninety days service, or less than ninety days service, performed for such corporation, but shall not be liable to an action therefor, before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution shall be the amount recoverable with costs against such stockholders; before such laborer or servant shall charge such stockholders for such ninety days service, or less than ninety days service, he shall give notice in writing, within twenty days after the performance of such service, that he intends to so hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in such corporation in ratable proportion to the amount of the stock they shall respectively hold with himself.

**CHAP. 529, LAWS OF 1870.****AN ACT in relation to mechanics' liens.****Provisions of lien law extended to railroad bridges and trestle work.**

SECTION 1. The provisions of the law relating to mechanics' liens heretofore passed shall apply to bridges and trestle work erected for railroads and materials furnished therefor, and labor performed in constructing said bridges, trestle work and other structures connected therewith; and the time within which said liens may be filed shall be extended to ninety days from the time when the last work shall have been performed on said bridges, trestle work and structures connected therewith, or the time from which said materials shall have been delivered. This act shall apply to all uncompleted work commenced prior to the passage of this act.

**CHAP. 63, LAWS OF 1887.**

**AN ACT to provide for the amicable adjustment of grievances and disputes that may arise between employer and employees and to authorize the creation of a State Board of Mediation and Arbitration.**

\* \* \* \* \*

**Act applicable to all corporations.**

§ 13. Whenever the term "employer" or "employers" is used in this act, it shall be held to include "firm," "joint stock association," "company," or "corporation," as fully as if each of the last-named terms was expressed in each place.

**CHAP. 381, LAWS OF 1889.****AN ACT to provide for the cash payment of wages by corporations****Wages payable only in cash.**

SECTION 1. Every manufacturing, mining or quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone corporation, and every incorporated express company, and water company not municipal, shall pay to each and every employee engaged in its business the wages earned by such employee in cash; and it shall not be lawful for any of the above-named companies or corporations to pay their employees in their own scrip or that of others commonly known as store money orders

**Penalty for violation of act.**

§ 2. Any corporation violating any of the provisions of this act shall be punished by a fine not exceeding fifty, and not less than ten dollars, on each complaint on which it is convicted, provided complaint for such violation is made within thirty days from the date thereof.

**Act, when to go into operation.**

§ 3. This act shall take effect upon the first day of July, one thousand eight hundred and eighty-nine.

As to the general subject of taxation of real estate, etc., see chapter 13, part 1, of Revised Statutes. Also, chap. 211, Laws, of 1885.

## CHAP. 110. LAWS OF 1858.

**AN ACT** to repeal parts of an act to amend chapter 13, part 1, of the Revised Statutes, entitled of the assessment and collection of taxes, and chapter 176 of the Laws of 1851, passed April 15, 1857.

**Repeal.**

**SECTION 1.** Sections 1 and 6 of chapter 536 of the Laws of 1857, as repealed, and that part of section 2 of the same chapter, which requires special notice to be given in case an assessment-roll includes property belonging to a railroad corporation, is also repealed.

## CHAP. 506, LAWS OF 1870.

**AN ACT** to facilitate the payment of taxes by railroad companies.

**Annual statement to be delivered by clerks of the several boards of supervisors to county treasurer.**

**SECTION 1.** It shall be the duty of the clerk of the board of supervisors of the several counties of this State (except New York and Kings counties, within five days after the making out or issuing of the annual tax warrants by the board of supervisors of their respective counties, to prepare and deliver to the county treasurer a statement showing the title of all railroad corporations in such county, as appears on the last assessment-roll of the towns or cities in such county, the valuation of the property, real and personal, of such corporation in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in their county.

**Railroad companies may pay tax to county treasurer; fees of treasurer.**

§ 2. Any railroad company heretofore organized under the laws of this State, or that may be hereafter organized, may, within thirty days after the receipt of such statement by the county treasurer, pay the amount of tax so assessed or levied on their property, with one per cent fees on said tax, to the county treasurer, who is hereby authorized and directed to receive such amounts and to give proper receipt therefor.

**County treasurer to notify collector of non-payment of tax; duty of collector.**

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of the county treasurer to notify the collector of all towns or cities in their county in which said company is assessed, of such failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect said tax in the manner now provided by law, together with five per cent fees; but no town or city collector shall collect any tax levied or assessed upon the property of any railroad company in said county, by the supervisors of the county, until the receipt of such notice from the county treasurer.

**County treasurer to credit taxes; collector to be credited with fees; sum plus to be paid to supervisor.**

§ 4. The several amounts of tax so received by the county treasurer, and from railroad companies, shall be placed to the credit of the town or city for or on account of which the same was levied or assessed, and to the credit of the fund or funds to which the same is now or shall be hereafter pledged or appropriated by law, and the one per cent fees also paid shall be placed to the credit of the collector of said city or town; and in case such amounts shall exceed the sum due from said town or city the surplus shall, on demand, be paid to the supervisor of said town or city, who shall receive, hold and disburse the same as if received from the collector of said town or city.

**Railroad company may pay tax to collector; proviso.**

§ 5. Nothing in this act shall be construed to prevent any railroad company from paying their tax to the collector of towns or cities as now provided by law; nor shall the provisions of this act be construed to in any manner interfere with the provisions of chapter 907 of the Laws of 1869.

## CHAP. 361, LAWS OF 1881.

**AN ACT** to amend chapter 542 of the Laws of 1880, entitled "An act to provide for raising taxes for the use of the State upon certain corporations, joint-stock companies and associations."

**Certain officers of company to make annual report to Comptroller on or before fifteenth of November; where dividend not declared, stock to be estimated and declared; certificate to be sent Comptroller; appeals.**

**SECTION 1.** Hereafter it shall be the duty of the president or treasurer of every association, corporation or joint-stock company liable to be taxed on its corporate franchise or business, as provided in section 3 of this act, to make report, in writing, to the Comptroller annually, on or before the fifteenth day of November, stating specifically the amount of capital paid in, the date, amount and rate per centum of each and every dividend declared by their respective corporations, joint-stock companies or associations during the year ending with the first day of said month. In all cases where any such corporation, joint stock company or association shall fail to make or declare any dividend upon either its common or preferred stock during the year ending as aforesaid, or in case the dividend or dividends made or declared upon either its common or preferred stock during the year ending as aforesaid shall amount to less than six per centum upon the par value of the said common or preferred stock, the treasurer and secretary thereof, after being duly sworn or affirmed to do and perform the same with fidelity, according to the best of their knowledge and belief, shall, between the first and fifteenth days of November in each year, in which no dividend has been made or declared as aforesaid, or in which the dividend or dividends made or declared upon either its common or preferred stock amounted to less than six per centum upon the par value of said common or preferred stock, estimate and appraise the capital stock of such company upon which no dividend has been made or declared, or upon the par value of which the dividend or dividends made or declared amounted to less than six per centum, at its actual value in cash—not less, however, than the average price which said stock sold for during said year, and when the same shall have been so truly estimated and appraised, they shall forthwith forward to the Comptroller a certificate thereof, accompanied by a copy of their said oath or affirmation, by them signed, and attested by the magistrate or other person qualified to administer the same, provided, that if the Comptroller is not satisfied with the valuation so made and returned, he is hereby authorized and empowered to make a valuation thereof, and to settle an account upon the valuation so made by him for the taxes, penalties and interest due the State thereon; and any association, corporation or joint-stock company dissatisfied with the account so settled may within ten days appeal therefrom to a board consisting of the Secretary of State, Attorney-General and State Treasurer, which board, on such appeal, shall affirm or correct the account so settled by the Comptroller, and the decision of said board shall be final; but such appeal shall not stay proceedings unless the full amount of the taxes, penalties and interest as due on said account, as settled by the Comptroller, be deposited with the State Treasurer.

**Comptroller to add ten per cent in case of failure to make report; proviso.**

2. If the said officers of any such corporation, joint-stock company or association shall neglect or refuse to furnish the Comptroller, on or before the fifteenth day of November of each and every year, with the report aforesaid, or the certificate of appraisement and oath or affirmation, as the case may be, as required by the first section of this act, or to pay the tax imposed on such corporation, company or association within fifteen days after the first of January, as provided in the fourth section of this act, it shall be the duty of the Comptroller of the State to add ten per centum to the tax of said corporation, company or association for each and every year for which such report or certificate of appraisement and

oath or affirmation were not so furnished, or for which such tax shall not have been paid, which percentage shall be assessed and collected with the said tax in the usual manner of assessing and collecting such taxes; provided, that if said officers of any such corporation, joint-stock company or association shall intentionally fail to comply with the provisions of the first or fourth section of this act for one year, the Comptroller shall report the fact to the Governor, who, if he shall be made satisfied that such failure was intentional, shall thereupon direct the Attorney-General to take proceedings in the name of the people of this State, to declare the charter or privileges of said corporation, joint-stock company or association forfeited and at an end; and for such intentional failure duly found, the charter and privileges of every such corporation, company or association shall cease, end and be determined.

#### **Annual tax, how computed.**

§ 3. Every corporation, joint-stock company, or association whatever, now or hereafter incorporated, organized, or formed under, by, or pursuant to law in this state or in any other state or country, and doing business in this state, except only savings banks and institutions for savings, life insurance companies, banks, foreign insurance companies, manufacturing or mining corporations, or companies wholly engaged in carrying on manufacture, or mining ores within this state, and agricultural and horticultural societies, associations or corporations, which exceptions, however, shall not include gas companies, trust companies, electric or steam heating lighting and power companies, shall be liable to and shall pay a tax, as a tax upon its franchise or business, into the state treasury annually, to be computed as follows: If the dividend or dividends made or declared by such corporation, joint-stock company or association, during any year ending with the first day of November, amount to six or more than six per centum upon the par value of its capital stock, then the tax to be at the rate of one-quarter mill upon the capital stock for each one per centum of dividends so made or declared; or if no dividend be made or declared, or if the dividend or dividends made or declared do not amount to six per centum upon the par value of said capital stock, then the tax to be at the rate of one and one-half mills upon each dollar of the valuation of the said capital stock, made in accordance with the provisions of the first section of this act; and in case any such corporation, joint-stock company or association shall have more than one kind of capital stock, as, for instance, common and preferred stock, and upon one of said stocks a dividend or dividends, amounting to six or more than six per centum upon the par value thereof, has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amount to less than six per centum upon the par value thereof, then the tax shall be at the rate of one-quarter mill for each one per centum of dividends made or declared upon the capital stock upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto, tax shall be charged at the rate of one and one-half mills upon each dollar of a valuation, made also in accordance with the provisions of this act, of the capital stock upon which no dividend was made or declared, or upon the par value of which the dividend or dividends made or declared did not amount to six per centum. (*Thus amended, Laws of 1890, chap. 522.*)

#### **When payable.**

§ 4. It shall be the duty of the treasurer or other officer having charge of any corporation, joint-stock company or association, upon which a tax is imposed by either of the preceding sections of this act, to transmit the amount of said tax to the treasury of the State within fifteen days after the first day of January in each and every year.

§ 5 relates only to insurance companies.

#### **Tax on railroad, steamboat and other companies; rate of tax.**

§ 6. In addition to the taxes above provided for, every corporation formed for railroad, canal, steamboat, ferry, express, navigation or transportation purposes, and every elevated railway company, and every corporation, joint-stock company or association now or hereafter

porated or organized by or under any law of this State, or now or hereafter incorporated or organized by or under the laws of any other State or country, and doing business in this State, and owning, operating or leasing to or from another corporation, joint-stock company or association, any railroad, canal, steamboat, ferry, express, navigation, pipe-line or transportation route or line or elevated railway, or other device for the transportation of freight or passengers, or in any way engaged in the business of transporting freights or passengers, and every telegraph company or telephone company incorporated under the laws of this or any other State, and doing business in this State, and every express company or association, palace car or sleeping car company or association incorporated or unincorporated, doing business in this State, shall pay to the State Treasurer for the use of the State, as a tax upon its corporate franchise or business in this State, a tax at the rate of five-tenths of one per centum upon the gross earnings in this State of said corporation or company or association, for tolls, transportation, telegraph, telephone or express business transacted in this state.

**When payable ; report of gross earnings ; report for six months ending June 30, 1881 ; ten per cent to be added in case of neglect.**

§ 7. The tax imposed under section 6 of this act shall, after the 1st day of August, 1881, be paid annually on the first day of August of each year. It shall be the duty of the president, secretary or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the Comptroller, on the first day of August in each year, a statement under oath or affirmation of the amount of the gross earnings of said associations, corporations or joint-stock companies derived from all sources during the year ending with the preceding thirtieth day of June, together with the amount of tax imposed thereon, by section 6. And it shall also be the duty of the president, secretary or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the Comptroller on the 1st day of August, 1881, a statement, under oath or affirmation, of the amount of the gross earnings of the said associations, corporations or joint-stock companies derived from all sources during the six months ending with the 30th day of June, 1881, together with the tax imposed thereon by section 6 of this act. And if any such corporation, joint-stock company or association shall neglect or refuse for a period of thirty days after any tax imposed by sections 6 or 7 of this act becomes due, to make returns or to pay the same, the amount thereof, with the addition of ten per centum thereto, shall be collected for the use of the State as other taxes are recoverable by law from such corporation, joint-stock company or association.

**Exempt from taxation for State purposes ; proviso.**

§ 8. The corporations, joint-stock companies and associations mentioned in this act as taxable shall hereafter be exempt from assessment and taxation for State purposes, except upon their real estate and as herein provided ; but they shall in all other respects be liable to assessment and taxation as heretofore.

**Tax, application of.**

§ 9. The taxes imposed by this act, and the revenue derived therefrom, shall be applicable to the payment of the ordinary and current expenses of the State, and if any corporation, joint-stock company, person, partnership or association shall neglect or refuse to pay any tax by this act quired to be paid, the same may be sued for in the name of the people of the State, and recovered in any court of competent jurisdiction, in action to be brought by the Attorney-General at the instance of the comptroller.

**ring section.**

10. All obligations, liabilities and taxes heretofore incurred or imposed der said act, chapter 542 of Laws of 1880, are saved and shall be enforced if the said act had not been hereby amended.



**Amount of capital stock employed in this State to be basis of tax; if dissatisfied, Comptroller may fix amount.**

§ 11. The amount of capital stock which shall be the basis for tax under the provisions of section three of this act, in the case of every corporation, joint-stock company and association liable to taxation thereunder, shall be the amount of capital stock employed within this State. In making to the Comptroller the report in writing or certificate of estimate and appraisal of the capital stock of such corporation, joint stock company or association provided for by the first section of this act, it shall be the duty of the president or treasurer thereof, as the case may be, to state specifically the amount of capital stock employed within this State, of such corporation, joint-stock company or association. Whenever the Comptroller is dissatisfied with such report or certificate of estimate and appraisal, as the case may be, of any corporation, joint-stock company or association whose capital is only partially employed within this State, he is authorized and empowered to ascertain, fix and determine the amount of capital employed within this State, and to settle an account for the taxes and penalties due the State thereon. (*Added by chap. 501, Laws of 1885.*)

**In case of failure to make report, Comptroller may examine books and records, and make report.**

§ 12. Whenever any corporation, joint-stock company or association liable to make reports or certificates of estimate and appraisal to the Comptroller, under any of the provisions of this act, shall neglect or refuse to make such report or reports within the time prescribed in this act, or shall make such report or certificate as shall be unsatisfactory to the Comptroller, the Comptroller is authorized to examine, or cause to be examined, the books and records of any such corporation, joint-stock company or association, and to fix and determine the amount of tax and penalty due in pursuance of the provisions of this act, either from the said books and records, or from any other data in his possession which shall be satisfactory to him, and to settle an account for said tax and penalty, together with the expenses of such examination, against said corporation, joint-stock company or association. (*Added by chap. 501, Laws of 1885.*)

**Comptroller may issue subpoenas and examine witnesses; penalty for failure to obey subpoena.**

§ 13. Whenever the Comptroller shall deem it necessary or important to examine any person as a witness upon any subject or matter relating to the amount of capital stock of such corporation, or to use, examine or inspect any book, account, voucher or document in possession of any officer of such corporation, or other person, or under his control, relating to such capital stock and tax, he shall have the power to issue a subpoena in proper form, commanding such person or officer to appear before him or some person designated as commissioner by him by an appointment in writing, filed in the office of such Comptroller, at a time and at the place where the principal office of such corporation is situated within this State in such subpoena specified, to be examined as a witness, and such subpoena may contain a clause requiring such person or officer to produce on such examination all books, papers and documents in his possession or under his control, relating to the capital stock of such corporation and the amount thereof employed within this State. Such subpoena shall be served upon the person named by showing him the original subpoena and delivering to and leaving with him at the same time a copy thereof. The Comptroller or the commissioner so designated by him as aforesaid may administer oaths to such persons as he may desire to examine, so brought before him by subpoena or otherwise, and examine them on oath in relation to any matter which may in any wise be material in determining the amount of the tax to be paid by any such corporation, joint-stock company or association as aforesaid. Whenever any person duly subpoenaed to appear and to produce evidence as aforesaid, or to produce any books and papers as hereinbefore provided, shall neglect or refuse to appear or to produce such books and papers according to the exigency of such subpoena, or shall refuse to testify before said Comptroller or the commissioner so designated by him

to answer any proper and pertinent question, he shall be deemed in contempt, and thereupon any justice of the Supreme Court of the judicial district within which the principal office of such corporation within this State is situated shall, upon the motion of the Comptroller, based upon affidavit showing the commission of the offense, either, first, make an order requiring the accused to show cause before him, at a time and place specified therein, why the accused should not be punished for the alleged offense; or, second, issue a warrant of attachment directed to the sheriff of a particular county, or generally directed to the sheriff of any county where the man may be found, commanding him to bring him before said justice either forthwith or at a time and place therein specified to answer for the alleged offense. On the return of said attachment and the production of the body of the defendant therein the said justice shall have jurisdiction in the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed and the same punishments inflicted as in the case of a witness subpoenaed to appear and give evidence as is prescribed in title 3, chapter 17 of the Code of Civil Procedure, in proceedings to punish a contempt of court other than a criminal contempt. (*Added by chap. 501, Laws of 1885.*)

**Comptroller to settle and adjust all accounts against corporations, for taxes and penalties since May 12, 1882; proviso as to payments made before August 1, 1885.**

§ 14. The Comptroller is hereby authorized and directed, upon application to him made by any corporation, joint-stock company or association, to make, settle and adjust all accounts against such corporation, joint-stock company or association, for all taxes and penalties arising under the third section of this act since the 12th day of May, A. D. 1882, by taking as a basis for taxation the capital employed within the State by such corporation, joint-stock company or association. Provided, however, that such corporation, joint-stock company or association shall not be entitled to the benefits of a settlement upon such basis unless it shall have secured such adjustment and paid into the treasury the full amount of the taxes so settled, before the 1st day of August, 1885, nor shall this section apply to the case of any tax for which suit shall have been heretofore brought by the Attorney-General, in which suit the trial has been commenced, or in which judgment shall have been entered heretofore for the people for the amount of said tax. Any corporation, joint-stock company or association whose capital has heretofore been only partially employed within this State, and which is now liable for taxes arising under the third section of this act since the 12th day of May, A. D. 1882, and which are still due and unpaid, may, at any time prior to the 1st day of August, 1885, pay to the State Treasurer, for the use of the State, in full discharge of the same, such sum of money as shall be fixed by the Comptroller as the tax due for the said period by the said corporation, joint-stock company or association, upon the basis of the capital employed within the State. Provided, that this section shall not apply to the case of any tax for which suit may have heretofore been brought by the Attorney-General, and for which judgment shall have been entered therein, or if in such suit trial has been commenced. (*Added by chap. 501, Laws of 1885.*)

#### **Interest.**

§ 15. All accounts hereafter settled by the Comptroller agreeably to the provisions of this act shall bear interest from a date thirty days after the sending of notice of settlement hereinafter provided for until full payment thereof shall be made. (*Added by chap. 501, Laws of 1885.*)

**Comptroller to give notice before making settlement of taxes.**

§ 16. It shall be the duty of the Comptroller after making with any partnership, corporation, joint-stock company or association liable to taxation under any of the provisions of this act, the settlement of such taxes, to forthwith send notice hereof, in writing, to such person, partnership, cor-

poration, joint-stock company or association, which notice may be sent by mail to the post-office address of such corporation, joint-stock company or association. (*Added by chap. 501, Laws of 1885.*)

**Provisions in relation to review of Comptroller; determination by writ of certiorari.**

§ 17. No writ of certiorari to review the determination and settlement of the comptroller as to the amount of capital used within the State by any corporation, joint-stock company or association, and as to the tax and penalty to be paid thereon, shall be granted, except application therefor be made within thirty days after service upon such corporation, joint-stock company or association by the comptroller of notice of such settlement. Nor shall any such writ be granted except the papers upon which motion therefor is to be made, including notice of motion, shall have been served upon the comptroller at least eight days before such motion, nor unless the corporation, joint-stock company or association applying for such writ shall, before making such motion, deposit with the state treasurer the full amount of taxes, penalties and charges so settled and adjusted by the comptroller, and file with him an undertaking in such amount and with sufficient sureties as shall be approved by one of the justices of the Supreme Court of this State, to the effect that if said writ be vacated and the determination of the comptroller sustained, the applicant for the writ will make payment of all costs and charges which may accrue against such applicant in the prosecution of such writ, including costs on all appeals. (*Added by chap. 501, Laws of 1885.*)

**Comptroller may issue warrant for collection after thirty days.**

§ 18. After the expiration of thirty days from the service by the comptroller of notice of settlement aforesaid, if no proceedings shall have been taken to review the same, as provided by this act, or if the deposit with the state treasurer of the amount of the said settlement, together with the undertaking, as provided for by this act, shall not then have been made, it shall be lawful for the comptroller to issue his warrant or warrants under his hand and seal of office directed to the sheriff of any county in this State, commanding him to levy upon and sell the goods and chatties, lands and tenements of the said corporation, joint-stock company or association found within said county, for the payment of the amount of said settlement, together with interest thereon and costs of executing said warrant, and to return the said warrant to the comptroller, and pay to the state treasurer the money which shall be collected by virtue thereof, by a certain time therein specified, not less than sixty days from the date of such warrant. Such warrant shall be a lien upon and shall bind the personal estate of the person, partnership, corporation, joint-stock company or association against whom it shall be issued, from the time an actual levy shall be made by virtue thereof, and the sheriff to whom such warrant shall be directed shall proceed upon the same in all respects with the like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments rendered by a court of record, and shall be entitled to the same fees and costs for his services in executing the same, to be collected in the same manner. (*Added by chap. 501, Laws of 1885.*)

**Readjustment of accounts in cases of illegal payment of taxes.**

§ 19. The comptroller may at any time revise and readjust any account theretofore settled against any person, association, corporation, or joint-stock company by himself or any preceding comptroller for taxes arising under this act or the act to which it is an amendment, whenever it shall be made to appear by evidence submitted to him that the same has been illegally paid or so made as to include taxes which could not have been lawfully demanded and shall resettle the same according to law and facts and charge or credit, as the case may require, the difference, if any.

resulting from such revision and resettlement upon the current accounts of such person, association, corporation, or joint-stock company. (*Added by chap. 463, Laws of 1889.*)

Comptroller's action may be reviewed by certiorari; appeals from determination.

§ 20. The action of the comptroller, upon any application made to him by any person or corporation for a revision and resettlement of accounts as provided in this act, may be reviewed, both upon the law and the facts upon certiorari by the Supreme Court at the instance either of the party making such application or of the attorney-general in the name and in behalf of the people of this State, and for that purpose the comptroller shall return to such certiorari the accounts and all the evidence submitted to him on such application, and, if the original or resettled accounts shall be found erroneous or illegal by this court, either in point of law or of fact, the said accounts shall be there corrected and restated by the said Supreme Court and from any such determination of the Supreme Court an appeal may be taken by either party to the Court of Appeals as in other cases. (*Added by chap. 463, Laws of 1889.*)

(The provisions of §§ 19 and 20 not to apply to any taxes heretofore paid by any person or corporation in pursuance of a judgment or order of a court or by virtue of any stipulation.)

#### CHAP. 143, LAWS OF 1886.

### AN ACT to tax stock corporations for the privilege of organization.

#### State tax on capital stock.

SECTION 1. Every corporation, joint-stock company, or association, incorporated by or under any general or special law of this state, having capital stock divided into shares, shall pay to the state treasurer, for the use of the State, a tax of one-eighth of one per centum upon the amount of capital stock which said corporation, joint-stock company or association is authorized to have, and a like tax upon any subsequent increase thereof. The said tax shall be due and payable upon the incorporation of said corporation, joint-stock company or association or upon the increase of the capital thereof; and no such corporation, joint-stock company or association shall have or exercise any corporate powers until the said tax shall have been paid. And the secretary of state and any county clerk shall not file any certificate of incorporation or articles of association, or certify or give any certificate to any such corporation, joint-stock company or association, until he is satisfied that the said tax has been paid to the state treasurer. And no such company incorporated by any special act of the legislature shall go into operation, or exercise any corporate powers or privileges, until said tax has been paid as aforesaid. But this act shall not apply to literary, scientific, medical and religious corporations or corporations organized under the banking laws of this state or under chapter one hundred and twenty-two of the Laws of eighteen hundred and fifty-one, entitled "An act for incorporation of building, mutual loan and accumulation fund associations," and the acts amendatory thereof. (*As amended by chap. 284, Laws of 1887.*)

#### Applicable to general fund.

2. The taxes imposed by this act and the revenue derived therefrom, shall be applicable to the general fund and for the payment of these claims and demands which shall constitute a lawful charge upon the fund.

## CHAP. 266, LAWS OF 1886.

**AN ACT** to provide for the more certain recovery of State taxes from delinquent associations, corporations and joint-stock companies.

**Recovery of delinquent taxes; provisions as to prosecution of suits for such taxes.**

**SECTION 1.** For the better enforcement of chapter five hundred and forty-two of the Laws of eighteen hundred and eighty and the acts amendatory thereof, it shall be lawful for any person having knowledge of the evasion of taxation under said acts by any association, corporation or joint-stock company liable to taxation thereunder, to report such fact to the Comptroller, together with such information as may be in his possession as may lead to the recovery of such taxes from said association, corporation or joint-stock company, and whenever in the opinion of the Attorney-General or Comptroller the interests of the State require it, either of them is hereby authorized to employ such person so reporting such evasion to assist in the collection and preparation of evidence and in the prosecution and trial of suits for such taxes; and so much of the sum collected from such delinquent association, corporation or joint-stock company, by reason of such report or such service, as shall be agreed upon by such person and the Attorney-General or Comptroller as a compensation therefor, shall be paid to such person, provided that the sum so paid shall not exceed ten per centum of the amount so collected; and provided further, that nothing whatever shall be paid to such person for such purpose unless there shall be a recovery of taxes from such delinquent association, corporation or joint-stock company by reason of such report or such services.

## CHAP. 675, LAWS OF 1881.

**AN ACT** to facilitate the payment of school taxes by railroad companies.

**Duty of school collector to deliver to county treasurer certain statement; duty of county treasurer in the premises.**

**SECTION 1.** It shall be the duty of the school collector in each school district in this State, except in the counties of New York, Kings and Cattaraugus, within five days after the receipt by such collector of any and every tax or assessment-roll of his district, to prepare and deliver to the county treasurer of the county in which such district, or the greater part thereof, is situated, a statement showing the name of each railroad company appearing in said roll, the assessment against each of said companies for real and personal property respectively, and the tax against each of said companies. It shall thereupon be the duty of such county treasurer, immediately after the receipt by him of such statement from such school collector, to notify the ticket agent of any such railroad company assessed for taxes at the station nearest to the office of such county treasurer, personally or by mail, of the fact that such statement has been filed with him by such collector, at the same time specifying the amount of tax to be paid by such railroad company. (*Thus amended, Laws of 1885, chap. 533.*)

**Time in which tax may be paid with one per cent fees.**

**§ 2.** Any railroad company hereafter organized, or which may hereafter be organized, under the laws of this State, may, within <sup>thirty</sup> ~~thirty~~ days

days after the receipt of such statement by such county treasurer, pay the amount of tax so levied or assessed against it in such district and in such statement mentioned and contained, with one per centum fees thereon, to such county treasurer, who is hereby authorized and directed, to receive such amount and to give proper receipt therefor.

**If tax not paid within thirty days, duty of collector to collect; limitation.**

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of such county treasurer to notify the collector of the school district in which such delinquent railroad company is assessed, of its failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect such unpaid tax in the manner now provided by law, together with five per centum fees thereon; but no school collector shall collect by distress and sale any tax levied or assessed in his district upon the property of any railroad company, until the receipt by him of such notice from the county treasurer.

**Tax to be placed to credit of school district; paid to collector on demand; fees to go to collector on demand.**

§ 4. The several amounts of tax received by any county treasurer in this State under the provisions of this act, of and from railroad companies shall be by such county treasurer placed to the credit of the school district for or on account of which the same was levied or assessed, and on demand paid over to the school collector thereof, and the one per centum fees received therewith shall be placed to the credit of, and on demand paid to, the school collector of such school district.

**Tax may be paid to collector direct.**

§ 5. Nothing in this act contained shall be construed to hinder, prevent, or prohibit any railroad company from paying its school tax to the school collector direct, as now provided by law.

#### CHAP. 694, LAWS OF 1867.

**AN ACT in relation to the valuation of the property of railroad companies in school districts, for the purpose of taxation.**

**Duty of town assessors.**

SECTION 1. It shall be the duty of the town assessors, within fifteen days after the completion of their annual assessment-list, to apportion the valuation of the property of each and every railroad, telegraph, telephone and pipe-line company as appears on such assessment-list, among the several school districts in their town, in which any portion of said property is situated, giving to each of said districts their proper portion, according to the proportion that the value of said property in each of such districts bears to the value of the whole thereof in said town. (Thus amended by chap. 414, of 1884.)

**1. Apportionment.**

2. Such apportionment shall be in writing, and shall be signed by said assessors, or a majority of them, and shall set forth the number of each

district and the amount of the valuation of the property of each railroad, telegraph, telephone and pipe-line companies apportioned to each of said districts; and such apportionment shall be filed with the town clerk, by said assessors, or one of them, within five days after being made; and the amount so apportioned to each district shall be the valuation of the property of each of said companies, on which all taxes against said companies in and for said districts shall be levied and assessed, until the next annual assessment and apportionment. (*Thus amended by chap. 414, Laws of 1884.*)

**When assessors neglect to make apportionment.**

§ 3. In case the assessors shall neglect to make such apportionment, it shall be the duty of the supervisor of the town, on the application of the trustees or board of education of any district, or of any railroad, telegraph, telephone and pipe-line company, to make such apportionment, in the same manner and with the like effect as if made by said assessors. (*Thus amended by chap. 340, Laws of 1885.*)

**Town clerk to furnish certified statement when requested.**

§ 4. The town clerk shall, whenever requested, furnish to the trustees or board of education of each district a certified statement of the amounts apportioned to each district, and the name of the company to which the same relates.

**When alteration is made in school district.**

§ 5. In case any alteration shall be made in any school district, affecting the property of any railroad, telegraph, telephone or pipe-line company the officer making such alteration shall, at the same time, determine what change in the valuation of the said property in such district would be just, on account of the alteration of district, and the valuation shall be accordingly changed. (*Thus amended by chap. 340, Laws of 1885.*)

#### CHAP. 344, LAWS OF 1877.

**AN ACT to authorize railroad corporations to pay commutation money for highway labor to the commissioners of highways of town.**

**Railroad corporation may commute; money, how applied.**

SECTION 1. Whenever any railroad corporation assessed in any town or road district for highway labor shall elect to commute therefor, as provided by law, such corporation shall pay the commutation money to the commissioner or commissioners of highways of such town, and such moneys shall be applied and expended in the improvement of roads and buildings and maintenance of bridges of such town. (*Thus amended, Laws of 1878, chap. 44.*)

**Not applicable to incorporated villages when separate road district; proviso.**

§ 2. This act shall not apply to incorporated villages which constitute a separate road district, nor shall it have the effect to repeal or modify chapter 66 of the Laws of 1872.

## BONDING OF TOWNS, AND RAILROAD AID DEBTS.

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Several statutes of this State relative to the bonding of towns, etc., are omitted because by article VIII, section 11 of the Constitution of the State of New York, adopted November 3, 1874, and November 4, 1884, they are practically abrogated, as to any future application, and remain as applying only to the time prior to the adoption of said constitutional amendment. These acts are as follows: Chap. 695, Laws of 1866; chap. 907, Laws of 1869; chaps. 300, 438, 507, 597, Laws of 1870; chaps. 64, 146, 260, 283, 388, 925, Laws of 1871; chaps. 54, 62, 307, 516, 689, 824, 883, Laws of 1872; chap. 720, Laws of 1873; chap. 328, Laws of 1875; chap. 320, Laws of 1877; chap. 62, Laws of 1879; chaps. 68, 293, Laws of 1882.

### Article VIII, Sec. 11, Constitution of the State of New York.

No county, city, town or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become directly or indirectly the owners of stock in or bonds of any association or corporation, nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county containing a city of over one hundred thousand inhabitants, or any such city, shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No such county or such city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water, but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.



**Commissioners, supervisors and financial officers required to report annually; to whom to report, and what.**

§ 4. It shall be the duty of the railroad commissioners, supervisors and financial officers of towns, villages, cities and counties, having in charge the moneys received and collected, and responsible for the payment of the interest and principal due on bonds issued under this act, and they are hereby required to report annually to the board of supervisors of counties, the trustees of villages and the mayor and board of aldermen or common council of cities, as the case may be, as now required by law, the sum due and payable the succeeding year, both principal and interest on said bonds.

**Tax to pay bonds.**

§ 5. It shall be the duty of the boards of supervisors of counties, the trustees of villages, and the boards of aldermen, and the common councils of cities, and they are hereby required to levy and collect in each year upon the towns, villages, cities or counties severally obligated, moneys sufficient to pay such interest when and as it shall fall due, and the principal of such bonds when and as the same shall become due and payable.

#### CHAP. 316, LAWS OF 1886.

**AN ACT in relation to the bonded indebtedness of villages, cities, towns and counties in this State, and to provide means for the payment and refunding thereof.**

**Bonded indebtedness, how paid up or retired; rate of interest on new bonds; old bonds to be canceled.**

SECTION 1. The present bonded indebtedness of any village, city, town or county in this State, including interest past due and unpaid, may be paid up or retired by the issue of new bonds for like amounts by the board of trustees, mayor or common council, town board, board of supervisors or supervisor, or railroad commissioners or officer or officers now having in charge according to law the payment of interest or principal on bonds herein proposed to be paid or retired respectively of such village, city, town or county; provided, however, that such new bonds shall be issued only when existing bonds can be retired by the substitution therefor of such new bonds or can be paid up by money realized on the sale of such new bonds, but where the said bonded indebtedness shall become due within two years from the issue of the said new bonds, then such new bonds may be issued or sold to provide money in advance, with which to pay up such existing bonds, when they shall become due and payable; and provided further, that such new bonds shall bear interest at a rate not exceeding four per centum per annum, payable semi-annually or quarterly. All existing bonds taken up by the substitution of such new bonds, or paid under the provisions of this act, and all new bonds and coupons, when paid up as herein provided, shall be immediately canceled as now provided by law, and a certificate executed by the officers issuing such new bonds shall be forthwith made and filed by them in the county clerk's office of the proper county, which shall state the amount of existing bonds so canceled and of new bonds so issued. This act shall not be so construed as to authorize the issue of new bonds to supersede or pay existing bonds which have been adjudged invalid by the final judgment of a competent court. The new bonds so to be issued shall be made payable at any period or periods deemed advisable by the officers issuing same, not less than one year nor more than forty years from their date; shall bear date and draw interest from the date of the payment of existing bonds, or the receipt of the money to pay existing bonds; and an amount not less than two per cent of the whole amount of said bonds so issued shall be made payable and shall be paid and retired, each and every year after the issue thereof, and said bonds shall be issued in no case at less than for their par value.

**Validity.**

§ 2. The bonds issued under the provisions of this act when submitted\* or sold to retire existing bonds, by any authorized officers of any town, village, city or county, or their successors in office, shall be valid and binding on the town, village, city or county wherein they are issued, and such bonds shall contain a recital that they are issued under the provisions of this act, and such recital shall be conclusive evidence in any court of the validity of said bonds and the regularity of their issue.

**Exempt from taxation.**

§ 3. All new bonds issued by any village, city, town or county in this State, under the provisions of this act, shall be exempt from taxation for town, county, municipal or State purposes, until the period when they are made payable.

**Duty of railroad commissioners.**

§ 4. It shall be the duty of the railroad commissioners, supervisors and financial officers of towns, villages, cities and counties, having in charge the money received and collected, and responsible for the payment of the interest and principal due on bonds issued under this act, and they are hereby required to report annually to the board of supervisors of counties, the trustees of villages and the mayor and board of aldermen, or common council of cities as the case may be, as now required by law, the sum due and payable the succeeding year, both principal and interest, on said bonds.

**Duty of boards of supervisors, common councils, etc.**

§ 5. It shall be the duty of the boards of supervisors of counties, the trustees of villages, and the board of aldermen and the common council of cities, and they are hereby required to levy and collect in each year upon the towns, villages, cities or counties severally obligated, moneys sufficient to pay such interest when and as it shall fall due, and the principal of such bonds when and as the same shall become due and payable.

**Commissioners to give bonds.**

§ 6. Before the said commissioners or either of them shall enter upon the discharge of their duties under this act, they shall jointly and severally with two or more sureties execute to the supervisor of said town or city a bond in the penal sum equal to one-fourth the amount to be issued by said town or city under and by virtue of this act, conditioned for the faithful discharge of their duties as commissioners under this act and existing laws, and for the just and honest application by them of all moneys or bonds issued by them or coming into their hands as such commissioners. The sufficiency of said sureties shall be determined by the supervisor of said town or city, or the county judge of the county wherein said town is situated, or any justice of the Supreme Court, and shall be indorsed on said bonds. The said bonds shall immediately thereafter be deposited with the supervisor or supervisors of said town or city, to be collected by him or his successors in office for the use and benefit of said town or city, in case the said commissioners, or either of them, are guilty of such a breach of duty or malfeasance in office as to render said bonds collectible; and it is further provided, that any willful appropriation or embezzlement or wrongful conversion of any said town bonds, or the moneys arising from the same, or the moneys to be raised by a sale thereof, as provided by this act, or of moneys to be raised by tax as aforesaid to an amount exceeding \$1,000, shall be a felony punishable by imprisonment in the State prison for a term not exceeding ten years.

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\*So in original.

## CHAP. 421, LAWS OF 1875.

**AN ACT** to authorize towns, cities and villages to pay their bonds, issued for railroad purposes, by exchanging therefor their railroad stock or bonds, and to exchange their stock of any railroad corporation for the bonds of such corporation.

**Town, city or village may exchange its bonds for railroad bonds or stocks; cancellation of bonds.**

**SECTION 1.** It shall be lawful for any town, city or village to exchange the bonds and stock of any railroad corporation for and in payment of the bonds of any such town, city or village, heretofore issued in aid of any such railroad corporation, and it shall be lawful for any town, city or village to exchange the stock of any railroad corporation for the bonds of such corporation; and such exchange may be made by the officers of such town, city or village having the lawful charge and custody of such railroad stock and bonds, but the same shall not be thus exchanged for less than the par value thereof; and when any such exchange shall be made, report thereof shall be made, by the officers making the same, to the then next meeting of the board of auditors of their town, the common council of their city, or the board of trustees of their village; and the town, city or village bonds obtained by such exchange shall thereupon be canceled.

## CHAP. 124, LAWS OF 1883.

**AN ACT** to amend chapter 522 of the Laws of 1881, entitled "An act in relation to the bonded indebtedness of villages, cities, towns and counties in this State, created in aid of railroads."

**Indebtedness may be paid by issue of new bonds; proviso; existing bonds to be canceled; construction of act; new bonds, when to be made payable.**

**SECTION 1.** Section 1 of chapter 522 of the Laws of 1881, entitled "An act in relation to the bonded indebtedness of villages, cities, towns and counties in this State, created in aid of railroads," is hereby amended so as to read as follows:

§ 1. The present bonded indebtedness of any village, city, town or county in this State, which was created to aid in the construction of any railroad, or which was created in the renewal or extension of any such indebtedness, or of any part thereof, may be paid up or retired, in whole or in part, whether due or to fall due by the issue of a new bond or bonds by the board of trustees, mayor and common council, town board, board of supervisors, or supervisor or railroad commissioners, or officer or officers now having in charge, according to law, the payment of interest and principal on bonds herein proposed to be paid and retired, respectively, of such village, city, town or county; provided, however, that such new bond or bonds shall be issued only when the existing bond or bonds can be retired by the substitution therefor of such new bond or bonds; or can be paid up by money realized on the sale of such new bond or bonds; and, provided, further, that such new bond or bonds shall bear interest at a rate not exceeding five per centum per annum, payable semi-annually. Any existing bond or bonds taken up by the substitution of such new bond or bonds, or paid under the provisions of this act, shall be immediately canceled, and a certificate executed officially by the officer or officers issuing such new bond or bonds shall be forthwith made and filed by him or them in the county clerk's office of the proper county, which shall state the amount of the existing bond or bonds so canceled and of the new bond or bonds so issued. This act shall not be so construed as to authorize the issue of new bonds to supersede or pay existing bonds which have been adjudged invalid by the final judgment of a competent court. The new bond or bonds issued under the provisions of this act shall be made payable at any period deemed advisable by the officer

or officers issuing the same, not less than two years nor more than thirty years from their date, and shall bear date and draw interest from the date of the payment of the existing bond or bonds, or the receipt of money to pay the existing bonds or bonds, and shall be issued in no case at less than their par value. (*See, however, section 1, chap. 522, Laws of 1881, as amended by chap. 453, Laws of 1883, page 468 hereof.*)

#### CHAP. 276, LAWS OF 1886.

**AN ACT** to authorize railroad commissioners to issue town bonds in place of bonds lost or destroyed.

**New bonds may be issued in lieu of those lost or destroyed; bond of indemnity requisite.**

**SECTION 1.** The railroad commissioners of any of the towns in this State, which have heretofore issued its bonds in aid of the construction of any railroad, which bonds, or any of which, shall have been lost or destroyed before the same shall have become due, are hereby authorized to issue new bonds of such town in the place and stead thereof, under their hand and seal, for the amount, at the same rate of interest, and to become due at the same time as such lost or destroyed bond or bonds, and deliver the same to the owner of such lost or destroyed bond or bonds, upon such owner furnishing to such commissioners satisfactory proof, by affidavit, of such ownership, and of the loss or destruction of such bond or bonds, and filing with said commissioners a sufficient bond of indemnity, with at least two sureties, to be approved by said commissioner, and by the supervisor of the town, and by the county judge of the county in double the amount of such bonds so to be issued.

**Contents of new bond.**

§ 2. The new bond or bonds so issued shall state upon the face thereof the denomination and number of the bonds in the place and stead of which they are issued, which said bonds shall be signed by the said railroad commissioners, and the coupons attached thereto, for interest, shall be signed by one of said commissioners, and said bonds countersigned by the town clerk of the town, and registered in the town clerk's office of such town in the record thereof.

**Duty of railroad commissioners in the premises.**

§ 3. It shall be the duty of the railroad commissioners to cause any such bond of indemnity, taken by them as provided in section one of this act, with their approval indorsed thereon, to be filed with the clerk of the county in which such town is situated, and the proofs of ownership, loss or destruction, to be filed in the office of the clerk of such town.

#### CHAP. 349, LAWS OF 1877.

**AN ACT** to provide for the payment of bonds issued by municipal corporations under the provisions of chapter 907, Laws of 1869, entitled "An act to amend an act entitled 'An act to authorize the formation of railroad corporations and to regulate the same,' passed April 2, 1850, so as to permit municipal corporations to aid in the construction of railroads," and the acts amendatory thereof.

**Commissioners to report annually bonded indebtedness.**

**SECTION 1.** It shall be the duty of the commissioners appointed under the provisions of chapter 907, Laws of 1869, entitled "An act to amend an act entitled 'An act to authorize the formation of railroad companies, and to regulate the same,' passed April 2, 1850, so as to permit municipal corporations to aid in the construction of railroads," and the acts amendatory thereof, to report annually the total amount of bonds issued under said chapter 907, Laws of 1869, and the acts amendatory thereof, by the town,

city or village represented by such commissioners; the date and time when the principal of said bonds will become due, the rate and times of payment of interest thereon, the amount of such principal or interest paid, the amount of said principal or interest due and unpaid and to become due before the annual tax levy and collection of tax for the year next succeeding, and the amount in their hands applicable to the payment of the principal of said bonds or the interest thereon.

**Form and execution of report; to be delivered to supervisors.**

§ 2. Such report shall be in writing, signed by the said commissioners, or a majority of them, and there shall be affixed to said report an affidavit of at least one of the commissioners that such report is in all respects true and correct. The commissioners shall deliver said report to the board of supervisors of the county within three days after the commencement of the annual meeting of said board of supervisors.

**Provisions for payment; moneys, to whom to be paid; bond of commissioners, renewal of.**

§ 3. It shall be the duty of the board of supervisors, at the annual meeting when such report is received, to cause to be levied and raised by tax, on the taxable property of said town, city or village, the amount necessary to pay the principal and interest due and to become due at any time prior to the annual tax levy and collection of tax for the year then next succeeding, as shown by said report, after deducting moneys on hand for the purpose. The amount so levied and raised by tax, when so collected, shall be paid over to the said commissioners, to be by them applied to the purpose for which it was so collected. And all money now in the hands of the supervisor of any town, or officer of any city or village, applicable to the payment of the principal of said bonds, or interest thereon, shall be, on demand, paid to such commissioners, and any money hereafter raised under the provisions of the act hereby amended, which by law is to be applied to the payment of said bonds, or interest thereon, shall, in like manner, be paid to said commissioners. But before any money shall be so paid to such commissioners, they shall severally execute to the town, city or village, and deliver to the town clerks of towns, or the clerks of cities or villages, a bond with two or more sureties in double the amount of the money to be so received by them, as near as can be ascertained, conditioned for the proper and due disbursement of such money, and the proper accounting therefor, which bond shall be first approved by the supervisor, or the county judge, and by the mayor or president of cities or villages, and said bond shall be renewed annually.

**Application of moneys received by commissioners; cancellation of bonds; commissioners to report to town auditors, etc., annually; duplicate to be filed, etc.; indorsement by town officers, etc.; deposit of report and bonds; acts not applicable to certain localities.**

§ 4. It shall be the duty of said commissioners to pay the principal and interest of said bonds at the maturity thereof, and on making such payments the bond or interest coupons paid shall be canceled by said commissioners by cutting out a portion of said bonds or coupons; and a full record of all bonds and interest coupons paid and canceled shall be kept by said commissioners, which record shall be at all times open to the inspection of the supervisor, members of the board of town auditors, and justices of the peace of towns, or the members of common councils or trustees of cities or villages; and said commissioners shall report in writing to the board of town auditors of towns, at their annual meeting, and to the common council or trustees of cities or villages, on the first day of April of each year, the date, number and amount of all bonds and interest coupons paid by them and canceled during the past year, and since their last report, and shall, at the same time, produce and deliver to the said town auditors, common council or trustees, bonds and interest coupons canceled by them, taking a receipt therefor, which shall set forth the date, number and amount of each bond or coupon. Said commissioners, at the time of making such report, shall also file with the town clerk of towns, and clerk of cities and village

duplicate thereof. The said town auditors and the common council or trustees, as the case may be, shall indorse upon the report so received from the commissioners, that the bonds and interest coupons mentioned therein, duly canceled, were received by them from the commissioners, if such is the case, and if all or any of them are not so received, so state in the indorsement. They shall then deposit said canceled bonds and coupons with said report, in the office of the clerk of the county for safe-keeping. Nothing in this act contained shall in any manner apply to or affect the town of Orleans, in the county of Jefferson, or any officer thereof, or any money raised by tax on the property therein, or to any bonds except such as were given under the act mentioned in the foregoing title.

#### **Limitation.**

§ 5. The provisions of this act shall not apply to the counties of Oswego, Madison, Erie, Orleans, Niagara and Genesee.

### **CHAP. 84, LAWS OF 1871.**

**AN ACT** to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only.

**Railroad and other corporate bonds; how made non-negotiable.**

SECTION 1. It shall be lawful for any person or persons owning and holding any railroad mortgage bonds, or other corporate bonds (for which a registry is not by law provided), heretofore issued, or which may be hereafter issued, and made payable in this State, and which are made payable to bearer, to render the same non-negotiable by the owner and holder indorsing upon the same and subscribing a statement that said bond is the property of such owner. And thereupon the principal sum of money mentioned in said bond shall only be payable to such owner or his legal representatives or assigns.

#### **Transfers; how made.**

§ 2. The bonds described and referred to in the first section of this act may be transferred by an indorsement in blank, giving name and residence of assignor, or they may be transferred by an indorsement payable to bearer or to the order of the purchaser (naming him), subscribed by the assignor, giving name and place of residence.

### **CHAP. 595, LAWS OF 1873.**

**AN ACT** relative to certain negotiable corporate bonds and obligations.

**How owner may make bonds non-negotiable.**

SECTION 1. The owner or holder of any corporate or municipal bond or obligation (except such as are designed to circulate as currency) payable to bearer, heretofore issued, or which may hereafter be issued and payable in this State, but not registered in pursuance of any law thereof, may make the same non-negotiable (except as provided in the second section of this act), by subscribing his name to a statement indorsed thereon that such bond or obligation is his property; and thereupon the principal sum therein mentioned shall be payable only to such owner or holder, or his legal representatives or assigns.

**How transferred after such indorsement.**

1. The bonds and obligations mentioned in the last section, after having been indorsed as therein provided, may be transferred by an indorsement, in blank, or payable to bearer, or to order, with the addition of the assignor's place of residence.

2. The provisions of this act to apply to interest coupons.

3. The provisions of this act shall apply to all interest coupons accompanying any corporate or municipal bond or obligation payable in this State.

**Repeal.**

§ 4. So much of chapter 84 of the Laws of 1871, entitled "An act to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only," as is inconsistent with this act is hereby repealed.

# **ACTS GOVERNING RAILROADS AND THEIR EMPLOYEES IN MANAGEMENT OF ROAD.**

## **CHAP. 100, LAWS OF 1847.**

**AN ACT** to provide for the destruction of Canada thistles and other noxious weeds on the banks of the canals, railroads and turnpike roads.

\* \* \* \* \*  
Canada thistles to be cut; if corporation neglect, any person may cut down at expense of corporation.

§ 3. It shall be the duty of the several railroad corporations and turnpike road corporations within this State to cause all Canada thistles, white and yellow daisies and other noxious weeds growing on any lands owned or occupied by such corporations, to be cut down twice in each and every year, once between the fifteenth day of June and the twenty-fifth day of June, and once between the fifteenth day of August and the twenty-fifth day of August. (*Thus amended, Laws 1881, chap. 296.*)

Any person may cut down where corporation neglects; corporation to pay expense.

§ 4. If the said corporations, or any or either of them, shall neglect to cause the same to be cut down, at the times in the third section of this act mentioned, it shall be lawful for any person to cut the same between the twenty-fifth day of June and the fifth day of July inclusive, and between the twenty-fifth day of August and the fifth day of September inclusive in each year, at the expense of the corporation on whose lands said Canada thistles, white and yellow daisies, or other noxious weeds shall be so cut, at the rate of \$3 per day for the time so occupied in cutting, to be recovered in any court of justice in this State. (*Thus amended, Laws 1881, chap. 296.*)

## **CHAP. 534, LAWS OF 1879.**

**AN ACT** for the preservation of moose, wild deer, birds, fish and other game.

### **Restrictions as to transportation of venison or deer.**

SECTION 1. \* \* \* No person, common carrier, corporation, association or company shall at any time carry or transport in this State, or have in possession for the purpose of transportation, any wild deed\* or venison, taken, caught, killed or captured in the counties of this State, or in either of them, except the counties of Queens and Suffolk, and any person, common carrier, corporation, association or company which has in his or its possession any such wild deer or venison, taken, caught, killed or captured in any of the said counties of the State, as aforesaid, or in either of them, except the counties of Queens and Suffolk, shall be deemed to have them in possession in violation of this act, except, however, that they may transport or have in possession for the purposes of transportation from the fifteenth day of August to the fifth day of November, not more than one carcass of wild deer or venison, taken, caught, killed or captured in said counties as aforesaid, or either of them, for each owner of said carcass as aforesaid; provided that such carcass be accompanied by the owner of the carcass. This section shall not apply to the head or feet of wild deer when severed from the carcass. Any person offending against any of the preceding provisions of this section shall be deemed guilty of a misdemeanor, in addition thereto shall be liable to a penalty of one hundred dollars for each wild deer or fawn so killed, hunted, pursued or trapped, or for each carcass or part thereof transported or had in possession for transportation in violation of this act, and for every spring gun so set, or wild deer

\*So in original.

fawn skin, or venison, had in possession, and may be proceeded against therefor in any county in this State in which the offense was committed or in which the offender or prosecutor may reside, or have an office for the transaction of business. (*As amended by chap. 501, Laws of 1888.*)

**Restrictions as to transporting game birds.**

§ 10. \* \* \* No person, carrier, corporation, association or company shall, at any time, carry or transport or have in his or its possession for the purpose of transportation, any ruffed grouse, commonly called partridge, or pinnated grouse, commonly called prairie chicken, or woodcock, caught or killed in that portion of this state constituting the forest preserve; and any person, carrier, corporation, association or company, which has in his or its possession any ruffed grouse, commonly called partridge, or pinnated grouse, commonly called prairie chicken, or woodcock, caught or killed in the counties included in the forest preserve, shall be deemed to have them in his or its possession in violation of this section; provide, however, that they may transport from the forest preserve or have in possession for the purpose of transportation the above-named birds or fowls from the first day of September to the first day of January in any year, caught or killed in the forest preserve, provided that they be accompanied by the owner. Any person or company offending against this provision shall be deemed guilty of a misdemeanor, and in addition thereto shall be liable to a penalty of twenty-five dollars for each bird or fowl so killed or had in possession during the prohibited season aforesaid; or for each carcass transported or had in possession for transportation in violation of this section. (*As amended by chap. 90, Laws of 1890.*)

**CHAP. 283, LAWS OF 1885.**

**AN ACT to establish a forest commission, and to define its powers and duties and for the preservation of forests.**

**Forest lands not to be leased or taken.**

§ 8. The lands now or hereafter constituting the forest preserve shall be forever kept as wild forest lands, and shall not be sold nor shall they be leased or taken by any person or corporation, public or private, except that whenever any of the lands now constituting the forest preserve, or which may hereafter become a part thereof, owned by the State within any county specified in section seven of the act hereby amended, shall consist of separate small parcels or tracts wholly detached from the main portions of the forest preserve and bounded on every side by lands not owned by the State, then it shall be lawful, and the Comptroller shall have power to sell and convey such separate tracts or parcels, or the timber thereon, to such person or persons, corporation or association as shall have offered the highest price therefor; but no such tracts or parcels of land, or the timber thereon, shall be sold by the Comptroller except upon the recommendation of the forest commission or a majority thereof, together with the advice of the Attorney-General in behalf of the State. Such separate tracts or parcels of land may be exchanged by the Comptroller for lands that lie adjoining the main tracts of the forest preserve upon the recommendation of the forest commission or a majority thereof, together with the advice of the Attorney-General on behalf of the State; but the values of said lands so exchanged must be first appraised by three disinterested appraisers sworn to faithfully and fairly appraise the value of said lands, and the difference, if any, between the values of such parcels so proposed to be exchanged shall be paid by the party so exchanging with the State to the State treasury, but the State shall not pay the amount of any such difference. Two of said appraisers shall be nominated and appointed by county judge of the county in which said lands proposed to be exchanged situate, or in case such lands are situate in two counties, then the county judge of each county shall nominate and appoint each one a raiser. The two appraisers so appointed shall select a third appraiser, they shall report to the Comptroller the result of said appraisal before the lands shall be exchanged as aforesaid. The said appraisers so appointed shall receive the same compensation for their services as is provided for appraisers of decedents' estates, to be paid by the party so pro-



posing to exchange lands with the State. It shall be the duty of the Comptroller annually to report to the Legislature all sales or exchanges of lands made under the provisions of this act, together with all bids and the amounts received therefor, and in said report shall be included the reports of appraisers of lands exchanged in accordance with the foregoing provisions. The proceeds of all land so sold, or the receipts from all exchanges so made, shall be invested by the Comptroller, with the approval of the forest commission, in the purchase of forest land adjoining great blocks of the forest preserve now owned by the State. (*Thus amended, Laws of 1887, chap. 475.*)

**Railroad companies to burn all inflammable material.**

§ 25. Every railroad company whose road passes through waste or forest lands, or lands liable to be overrun by fires within this State, shall twice in each year cut and burn off or remove from its right of way all grass, brush or other inflammable material, but under proper care, and at times when the fires thus set are not liable to spread beyond control.

**Locomotives to be provided with arrangement for preventing escape of fire from engine.**

§ 26. All locomotives which shall be run through forest lands shall be provided, within one year from the date of this act, with approved and sufficient arrangements for preventing the escape of fire from their furnaces or ash-pan, and netting of steel or iron wire upon their smoke-stack to check the escape of sparks of fire. It shall be the duty of every engineer and fireman employed upon a locomotive to see that the appliances for the prevention of the escape of fire are in use and applied, as far as it can be reasonably and possibly done.

**Fire not to be deposited on track in the vicinity of woodlands; trainmen to report fences on fire; extinguishment.**

§ 27. No railroad company shall permit its employees to deposit fire-coals or ashes upon their track in the immediate vicinity of woodlands or lands liable to be overrun by fires, and in all cases where any engineers, conductors or trainmen discover that fences along the right of way, on woodlands adjacent to the railroad, are burning, or in danger from fire, it shall be their duty to report the same at their next stopping place, and the person in charge of such station shall take prompt measure for extinguishing such fires.

**Companies to provide men to extinguish fires.**

§ 28. In seasons of drought, and especially during the first dry time in the spring after the snows have gone and before vegetation has revived, railroad companies shall employ a sufficient additional number of trackmen for the prompt extinguishment of fires. And where a forest fire is raging near the line of their road they shall concentrate such help and adopt such measures as shall most effectually arrest their progress.

§ 29. Any railroad company violating the provisions or requirements of this act shall be liable to a fine of \$100 for each offense.

#### CHAP. 439, LAWS OF 1884.

**AN ACT for the better protection of life and property upon the railroads of this State, to promote the safer and better management of steam railroads.**

**The switches to be used in constructing new or in renewal of old ones.**

SECTION 1. Steam railroads shall hereafter lay in the construction of, and in the renewal of existing switches upon freight or passenger main tracks, switches on the principle of either the so-called Tyler, Wharm, Lorenz or split-point switch, or some other kind of safety switch which shall prevent the derailment of a train when such switch is misplaced a switch interlocked with distant signals. For each switch laid in violation of the provisions of this section the corporation, person or persons operating said railroad, shall be liable to penalty of not exceeding \$100 - to the further penalty of \$5 for each day that such switch is used.

**Warning signals; penalty; what misdemeanor.**

§ 2. Every steam railroad shall, within six months after the passage of this act, erect, and thereafter maintain, such suitable warning signals at every low bridge or structure which crosses the railroad above the tracks, where such warning signals may be necessary for the protection of employees on top of cars from injury. The corporation, person or persons operating said railroad, and violating the provisions of this section, shall be liable to a penalty of not exceeding \$100 for each thirty days' neglect. Whoever willfully destroys or breaks any such bridge guard shall be guilty of a misdemeanor.

The Supreme or County Court may, on application, etc., order flagman to be stationed at highway crossing, etc.; when such order to be made; special provision as to speed in certain villages.

§ 3. At any point where a street, highway, turnpike, plankroad or traveled way is crossed at the same level by a railroad, or at any point where a horse railroad is crossed by a steam railroad, the Supreme Court or County Court may, upon the application of the local authorities and upon ten days' notice to the railroad corporation whose road so crosses, order that a flagman be stationed at such point, or that gates shall be erected across such street, highway, turnpike or plankroad, and that a person be stationed to open and close such gates when an engine or train passes, or make such other order respecting the same as it deems proper. Such order shall only be made after the refusal or neglect of such corporation to station such flagman or erect such gates after having been requested so to do by such local authorities. And whenever the crossings by a railroad at the same level of any street, highway, turnpike, plankroad or traveled way within the limits of any village or city shall be protected by gates with persons stationed to open and close the same when an engine or train passes, it shall not be lawful for the local authorities of such village or city, not having by the last State or United States census a population of fifty thousand, to impose any limitation, less than thirty miles per hour, upon the speed at which such engine or train shall be run upon the railroad within the corporate limits of such village or city, or to enforce any existing limitations upon such rate of speed. (*Thus amended, Laws of 1889, chap. 242.*)

**Automatic couplers after July 1, 1886, to be placed on new freight cars; penalty.**

§ 4. After July 1, 1886, no couplers shall be placed upon any new freight car to be built or purchased for use, in whole or in part, upon any steam railroad in this State, unless the same can be coupled and uncoupled automatically without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars. The corporation, person or persons operating said railroad, and violating the provisions of this section, shall be liable to a penalty of not exceeding \$100 for each offense.

(See, also, chap. 524, Laws of 1889, p. 464.)

**Trains and locomotives to come to a full stop where roads cross on same level; when to cross; expense of watchman; action when railroad companies disagree as to precedence of trains; penalty of engineer and corporation; when stop may be discontinued; where this section not to apply.**

§ 5. All trains and locomotives on railroads crossing each other on the same level shall come to a full stop before crossing, not less than 200 nor more than 800 feet from said crossing, and shall then cross only when the way is clear and upon a signal to do so from a watchman stationed at the crossing. If they cannot agree as to the expense of such watchman, it shall be determined by the Supreme Court, upon motion thereto by either of said corporations. In case of disagreement as to the precedence of trains, the Board of Railroad Commissioners, after hearing, may, upon joint application of the companies interested, prescribe rules in relation thereto. An engineer violating the provisions of this section shall be liable to a penalty of \$100, and any corporation, person, or persons operating the railroad violating any of the provisions of this section shall be liable to a penalty not exceeding \$500. The full stop and crossing on signal,

provided in this section, may be discontinued when the Board of Railroad Commissioners shall decide it to be impracticable, or when, with the approval of the Board of Railroad Commissioners, an interlocking switch and signal apparatus is adopted and put in operation at such crossing by the railroads there crossing each other at a level. This section shall not apply to depot yards and the approaches thereto when the crossing roads are under lease or subject to the same management or control in the use of tracks.

**When automatic air-brakes or other form of safety power brake to be applied from locomotive to be attached to passenger cars; not to apply to cars attached to freight trains where speed does not exceed twenty miles an hour; the old link connection after July 1, 1884, not to be used on cars carrying mails and passengers exclusively; penalty.**

§ 6. After the expiration of one year from the passage of this act, no steam railroad shall use for passenger transportation any car to which an automatic air-brake or other form of safety power brake, applied from the locomotive, shall not be attached. The provisions of this section shall not apply to any cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour. And after July 1, 1884, no trains which carry mails or passengers exclusively shall run cars coupled by the old link connections. The corporation, person or persons operating said railroad and violating the provisions of this section shall be liable to a penalty not exceeding \$100 for each offense.

**Where baggage is willfully or recklessly injured; insufficient help for handling; penalty; disposition thereof.**

§ 7. Any baggagemaster or other person whose duty it is, for, or on behalf of any common carrier, to handle, remove or care for the baggage of passengers, who shall willfully or recklessly injure or destroy any trunk, valise, box, bag, package or parcel, while loading, unloading, transporting, delivering or storing the same, or any railroad corporation which shall knowingly keep in its employment any such willful or reckless baggagemaster, or other person, or who shall permit any injury or destruction of the property aforesaid through failure to provide sufficient help and facilities for the proper handling thereof, shall be liable to a penalty not exceeding fifty dollars. Upon the recovery and payment of such penalty, the court before whom such recovery is had shall set apart and pay over to complainant one-half of the amount so recovered and paid.

**Axe, sledge-hammer, crowbar and handsaw to be kept in each closed car in every passenger train; penalty.**

§ 8. Each closed car in use in every passenger train, owned or regularly used upon a railroad, shall be equipped with one set of tools, consisting of an axe, sledge-hammer, crowbar and handsaw, to be properly placed so as to be easily removed. The corporation, person or persons operating said railroad violating the provisions of this section shall be liable to a penalty of \$100 for each offense.

**Proviso.**

§ 9. Nothing in this act shall affect the provisions of chapter 353 of the Laws of 1882. (*Act creating Board of Railroad Commissioners.*)

#### CHAP. 524, LAWS OF 1889.

**AN ACT** regulating railway appliances to be used on all railway lines within the limits of the State of New York.

**Use of automatic couplers on freight cars regulated.**

SECTION 1. All persons and corporations operating any line or line-railway by steam power in this State shall, after the first day of November 1892, equip all of its own engines and freight cars run and used in freight trains, or other trains in this State, with such automatic self couplers; it shall be unlawful after that date, to run or operate in this State freight cars belonging to such persons or corporations without having same equipped with the appliances above mentioned. Provided, that shall be lawful in case of accident, or other emergency, to temporarily dispense with the use of such appliances.

**Railroad Commissioners may extend time.**

§ 2. In special cases the Railroad Commissioners of this State may extend the time for compliance with this act for a period not exceeding one year.

**Failure to comply with act; how punished.**

§ 3. Any person or corporation operating a line of railway by steam power in this State who shall fail or neglect to comply with the provisions of this act shall be guilty of a misdemeanor, and, on conviction, shall be punished by a fine of \$500 for each offense. Provided, that employees shall not be deemed guilty or subject to punishment under this act.

(See in this connection § 4 of chap. 439, Laws of 1884, page 463.)

**CHAP. 605, LAWS OF 1886.**

**AN ACT** to relieve certain railroad companies from the obligation of operating their road, under certain conditions, during the winter season.

**Certain roads may cease operating in winter season.**

SECTION 1. It shall be lawful for the directors of any railroad hereafter constructed and used principally for transporting lumber or ores during the summer months, or constructed and used principally for summer travel to cease the operation thereof during the winter season by complying with the provisions of this act.

**Application to be made to Board of Railroad Commissioners.**

§ 2. Any such corporation may by a resolution duly passed at a meeting of the directors thereof, apply to the Board of Railroad Commissioners of this State, for permission to cease the operation of their road during the winter season for a period not exceeding seven months in any one year, specifying the date of such suspension, and the date of the reopening thereof. Such Board of Railroad Commissioners may, in their discretion, grant an order permitting such abandonment of the operation of said road during the winter season not exceeding said period of seven months. When such Board of Railroad Commissioners shall so order, said railroad company shall be relieved of the duty of operating their road during the period specified in such order.

**Copy of order to be posted and published.**

§ 3. Said railroad company shall post a copy of such order so made by said Board in all the depots of and at the termini of said road, and publish the same in every paper in each town, in any part of which said road shall be constructed, at least four weeks prior to the date of such suspension.

**CHAP. 616, LAWS OF 1887.**

**AN ACT** to regulate the heating of steam passenger cars and to provide for the placing of guards and guard-posts on railroad bridges and trestles and the approaches thereto.

**Passenger cars not to be heated by stove or furnace; powers of Railroad Commissioners in relation thereto.**

SECTION 1. It shall not be lawful for any steam railroad doing business in this State, after the first day of November, eighteen hundred and eighty-eight, to heat its passenger cars, on other than mixed trains, by any stove or furnace kept inside of the car, or suspended therefrom, except it may be lawful, in case of accident or other emergency, to temporarily use such stove or furnace with necessary fuel. Provided, that in cars which have been equipped with apparatus to heat by steam, hot water or hot air from the locomotive, or from a special car, the present stove may be retained, to be used only when the car is standing still. And provided also, that this act shall not apply to railroads less than fifty miles in length, nor to cars of foreign railroad companies incorporated without the jurisdiction of the United States hauled upon railroad tracks in this State for a distance of less than thirty miles, nor to the use of stoves, of a pattern and to be approved by the Railroad Commissioners, for cooking purposes in dining-room cars. (*Thus amended, Laws of 1889, chap. 76.*)

Guard-posts to be placed in prolongation of line of bridge trusses.

§ 2. After November first eighteen hundred and eighty-seven, guard-posts shall be placed in the prolongation of the line of bridge trusses, so that in case of derailment the posts and not the bridge trusses shall receive the blow of the derailed locomotive or car.

Penalty for violation of this act.

§ 3. Any person or corporation violating any of the provisions of this act shall be liable to a penalty of one thousand dollars, and to the further penalty of one hundred dollars for each and every day during which such a violation shall continue.

Board of Railroad Commissioners to approve devices used under this act.

§ 4. Upon the application of any railroad covered by the provisions of this act, the Board of Railroad Commissioners may approve of any proposed safeguard or device to be used under the provisions of this act, and thereafter the railroad using such safeguard or device so approved shall not be liable to any of the penalties prescribed by this act for a violation thereof in regard to any such safeguard or device.

§ 5. The violation of any of the provisions of this act will be deemed a misdemeanor.

#### CHAP. 189, LAWS OF 1888.

AN ACT to amend chapter six hundred and sixteen, laws of eighteen hundred and eighty-seven, entitled "An act to regulate the heating of steam passenger cars and to provide for the placing of guards and guard-posts on railroad bridges and trestles and the approaches thereto."

(Section 1 amends § 1, chap. 616, Laws of 1887, as given above.)

Railroad Commissioners may extend time for heating in special cases.

§ 2. In special cases the board of railroad commissioners may extend the time for a period not exceeding one year from November first, eighteen hundred and eighty-eight, for any steam railroad doing business in this state to heat its passenger cars by any stove or furnace kept inside the car or suspended therefrom. And said board may, in their discretion further extend such time upon any narrow gauge railroad in this state. (Thus amended, chap. 421, Laws of 1890.)

Provisions as to certain narrow gauge roads.

§ 2. The provisions of the act of which this is amendatory shall not apply to any narrow gauge railroad in this state which does not run any other than mixed trains between October fifteenth and May first. (Added by chap. 421, Laws of 1890.)

#### CHAP. 292, LAWS OF 1882.

\* \* \* \* \*  
Oils that ignite below 300 degrees Fahrenheit not to be burned in cars.

§ 2. No oil or burning fluid, whether composed wholly or in part of coal oil and petroleum or their products, or other substance or material, which will ignite at a temperature below three hundred degrees by the Fahrenheit thermometer, shall be burned in lamp, vessel, or other stationary fixture of any kind, or carried as freight, in any passenger or baggage car or passenger boat moved by steam power in this State, or in any stage or street car drawn by horses. Exceptions as regards the transportation of coal oil, petroleum and its products, are hereby made when the same is securely packed in barrels or metallic packages, and permission is heretofore granted for its carriage in passenger boats moved by steam power where there are no other public means of transportation. Any violation of this act shall be deemed a misdemeanor and subject the offending party or parties to a penalty not exceeding three hundred dollars, or imprisonment not exceeding six months, at the discretion of the court.

\* \* \* \* \*  
§ 5. It shall be the duty of all district attorneys of the counties in this State to represent and prosecute in behalf of the people, within their respective counties, all cases of offenses arising under the provisions of this act.

## CHAP. 300, LAWS OF 1837.

## AN ACT relative to unclaimed trunks and baggage.

**Description of same to be entered in a book.**

SECTION 1. The proprietor or proprietors of the several lines of stages, and the proprietors of the several canal boat lines, and the proprietors of the several steamboats, and the several incorporated railroad companies, and the keepers of the several inns and taverns within this State, who shall have any unclaimed trunks, boxes or baggage within his, their, or either of their custody, shall immediately enter the time the same was left, with a proper description thereof, in a book to be by them provided and kept for that purpose. In case the name and residence of the owner shall be ascertained, it shall be the duty of such person who shall have any such property as above specified, to immediately notify the owner thereof by mail.

**Description of property to be made and published in State paper.**

§ 2. In case there shall not be any information obtained as to the owner, it shall be the duty of the person having the possession thereof, to make out a correct written description of all such property as shall have been unclaimed for thirty days, stating the time the same came into his possession, and forward said description to the editor of the State paper, whose duty it shall be on the first Mondays of July, October, January and April in each year, to publish the same in the State paper once a week for three weeks successively.

**If not claimed for sixty days after said publication, to be opened and examined and an inventory made; when to be sold at public auction, upon what notice; disposition of proceeds.**

§ 3. In case the said property shall remain unclaimed for sixty days after the said publication, it shall be the duty of the person or company having possession thereof, to apply to a magistrate of the town or city in which said property is retained, in whose presence and under whose direction said property shall be opened and examined, and an inventory thereof taken by said magistrate; and if the name and residence of the owner is ascertained by such examination, it shall be the duty of the magistrate forthwith to direct a notice thereof to such owner, by mail; and if said property shall remain unclaimed for three months after such examination, it shall be the further duty of the person or company having possession thereof to apply to a magistrate as aforesaid, and if said magistrate shall deem such property of sufficient value, he shall cause the same to be sold at public auction, giving six days' previous notice of the time and place of such sale; and from the proceeds of such sale he shall pay the charges and expenses legally incurred in respect to said property, or a ratable proportion thereof to each claimant, if insufficient for the payment of the whole amount; and the balance of the proceeds of such sale, if any, the said magistrate shall immediately pay to the overseers of the poor of said town or city, for the use of the poor thereof, and the said overseers shall make an entry of such amount, and the time of receiving the same, upon their official records, and it shall be subject, at any time within seven years thereafter, to be reclaimed by, and refunded to, the owner of such property, his heirs or assigns, on satisfactory proof of such ownership.

**Expense; to be a lien on property.**

§ 4. The person making the entry of unclaimed property as above specified, shall be entitled to twelve and a half cents for each trunk, box, bale, package or bundle so entered, and shall have a lien on the property so entered until payment shall be made; and in case any additional expense shall be incurred for printing, the lien shall continue until payment shall be made for such additional expense.



**Penalty.**

§ 5. In case any person shall neglect or refuse to comply with the provisions of this act, he shall forfeit the sum of five dollars for each and every trunk, box or bundle of baggage so neglected as above specified, to the benefit of any person who shall sue for the same in his own name, in an action of debt in any court having cognizance thereof.

**CHAP. 185, LAWS OF 1857.****AN ACT to prevent extortion by railroad companies.****Penalty for taking excess of fare.**

SECTION 1. Any railroad company which shall ask and receive a greater rate of fare than that allowed by law shall forfeit \$50, which sum may be recovered, together with the excess so received, by the party paying the same; but it shall be lawful, and not construed as extortion, for any railroad company to take the legal rate of fare for one mile for any fractional distance less than a mile; and every action brought to recover said \$50 and excess of fare shall be brought within one year after the accruing of the cause of action. But it shall be a defense in any such action if the railroad company shall show to the satisfaction of the court that such overcharge shall have been made through inadvertence or mistake not amounting to gross negligence. (*Thus amended, Laws of 1886, chap. 415.*)

**CHAP. 346, LAWS OF 1863.****AN ACT empowering railroad companies to employ police force.****Appointment of policemen.**

SECTION 1. Any railroad corporation on which road steam is used as the motive power, and any steamboat company may apply to the Governor to commission such person or persons as the said corporation may designate, to act as policemen for said corporation; but no more than one policeman shall be appointed at any one station of such company. (*Thus amended, Laws 1866, chap. 259.*)

**Number.**

§ 2. The Governor, upon such application, may appoint such persons or so many of them as he may deem proper to be such policemen, and shall issue to such person or persons so appointed a commission to act as such policeman.

**Policemen to take oath of office, Secretary of State to transmit certificate of appointment, etc.**

§ 3. Every policeman so appointed shall, within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the oath of office prescribed in the case of officers appointed by the Governor, in the twelfth article of the Constitution, which oath of office shall be taken and subscribed before the Secretary of State, or before the county clerk of the county in which such policeman resides, which said oath or a duplicate thereof shall be filed in the office of the Secretary of State. And it shall be the duty of the Secretary of State, upon the filing of such oath of office, to transmit to the county clerk of each county through or into which the railroad or steamboat for which such policeman is appointed may run, and in which the said policeman is herein authorized to act, a certificate under his hand and the seal of office, setting forth the appointment of said policeman by the Governor and that his commission is recorded and oath of office filed in the office of said Secretary of State, which certificate shall be filed by each county clerk receiving the same. Such policemen shall thereupon severally possess all the powers of policemen in the several towns, cities and villages in which they shall be so authorized to act as aforesaid. (*Thus amended, Laws of 1875, chap. 193.*)

**Shield.**

§ 4. Such police shall, when on duty, severally wear a metallic shield, with the words "railway police," or "steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, and said shield shall always be worn in plain view, except when employed as detectives. (*Thus amended, Laws of 1886, chap. 259.*)

**Compensation.**

§ 5. The compensation of such police shall be paid by the companies for which the policemen are respectively appointed, as may be agreed upon between them.

**Powers of, when to cease.**

§ 6. Whenever any company shall no longer require the services of any policemen so appointed as aforesaid, they may file a notice to that effect in the several offices in which notice of such appointment was originally filed, and thereupon the power of such officer shall cease and be determined.

**CHAP. 223; LAWS OF 1880.**

**AN ACT for the better protection of the traveling public.**

**Governor authorized to appoint conductors and brakemen special policemen.**

SECTION 1. The Governor is hereby authorized, in his discretion, to appoint all or any conductors and brakemen of any trains of any steam railroad in this State conveying passengers, for the purposes of this act, policemen having all the powers, for the purposes of this act, with which policemen of villages and cities are clothed, and each and every such conductor and brakemen shall take and file the usual oath of office, in the office of the clerk of the county in which he resides, or in the office of the clerk of the county in this State in which either terminus of such road may be.

§ 2 repealed by Laws of 1886, chap. 593.

**Penalty for failure to act.**

§ 3. Any conductor or brakemen refusing or neglecting to perform the duty imposed upon him by this act shall be liable to a fine not exceeding \$250, to be sued for by and in the name of any superintendent of the poor of any county where such refusal or neglect may have occurred, in any court of competent jurisdiction at any place on the line of said railroad, or to imprisonment not less than six months, or to both, in the discretion of the court.

**Fines, when collected; disposition of.**

§ 4. Any fine so imposed, when collected, shall be placed in the treasury of the county where recovered, for the use of the poor of said county.

**Copy of this act must be posted by superintendent or manager.**

§ 5. It shall be the duty of every superintendent or manager of every steam railroad in this State, immediately after the passage of this act, to post a copy of this law in some conspicuous place in each and every car used for the conveyance of passengers, under a penalty of not to exceed \$500 for each and every such car in which such notice shall not be posted.

**CHAP. 246, LAWS OF 1865.**

**ACT in relation to employees on railroads in this State.**

person over twenty-one years of age may be employed.

SECTION 1. It shall be lawful for the owner or owners of any railroad in this State to employ any inhabitant of this State of the age of twenty-one



years, as a car driver or conductor, or in any other capacity, notwithstanding any law, regulation, or ordinance of any officer or municipality, or of the common council or government of any city or county to the contrary.

#### CHAP. 401, LAWS OF 1887.

##### AN ACT in relation to milk cans.

\* \* \* \* \*

**Rights of railroad superintendents in relation thereto.**

§ 11. The owner or owners, dealer or dealers, shipper or shippers, and the several superintendents of the various railroad companies and the branches and connections thereof, and steamboat lines operating their lines, or any portion thereof in the State of New York, or elsewhere, shall have power to collect, gather and take into possession from any person or persons within the State of New York, or wherever found in said State, any such milk or cream can or cans, and shall have power to appoint an agent therefor.

**What shall constitute evidence of appointment of agent.**

§ 12. The certificate of any superintendent of any of the railroad companies or steamboat lines mentioned in this act, or other person or persons authorized thereto, in this act, appointing an agent to collect such can or cans duly acknowledged before a notary public, shall be presumptive evidence of the authority of such agent.

**Powers of such agent.**

§ 13. Such agent shall have full power to collect, gather and take into his possession from any person or persons, or wherever found, any such milk or cream can or cans, and in case of resistance may call to his aid the assistance of any constable or police officer, who shall assist him to take possession of such can or cans.

#### CHAP. 329, LAWS OF 1886.

##### AN ACT to prevent the spread of contagious and infectious diseases.

**In what cases hermetically sealed casket is requisite.**

SECTION 1. Whenever the body of any diseased person is to be transported over the railroads of this State, or upon any passenger steamboat plying upon the rivers of this State, the board of health to which application is made for a transit permit for the transportation of such body shall, if the physician's certificate, or the permit accompanying such body, state the cause of death to have been a contagious or infectious disease, require that such body be inclosed in an hermetically sealed casket of metal or other indestructible material.

#### CHAP. 134, LAWS OF 1878.

##### AN ACT in relation to infectious and contagious diseases of animals.

(So much of section two of the said act as is applicable to railways.)

\* \* \* \* \*

To order all or any animals coming into the State to be detained any place or places for the purpose of inspection and examination.

To prescribe regulations for the destruction of animals affected with infectious or contagious disease, and for the proper disposition of hides and carcasses, and of all objects which might convey infection, provided that no animal shall be destroyed unless examined by a medical or veterinary practitioner in the employ of the Governor as aforesaid.

To prescribe regulations for the disinfection of all premises, buildings, boats and railway cars, and of all objects from or by which infection or contagion may take place or be conveyed.

To alter and modify from time to time, as he may deem expedient, the terms of all such proclamations, orders and regulations, and to cancel or withdraw the same at any time. (*As amended by chap. 283, Laws of 1888.*)

#### CHAP. 490, LAWS OF 1885.

#### AN ACT concerning tramps.

##### Penalty for entering building without consent.

§ 4. Any tramp who shall enter any building against the will of the owner or occupant thereof, under such circumstances as shall not amount to burglary, or willfully or maliciously injure the person or property of another, which injury under existing law does not amount to a felony, or shall be found carrying any firearms or other dangerous weapon, or burglar's tools, or shall threaten to do any injury to any person or to the real or personal property of another, when such offense is not now punishable by imprisonment in the State prison, shall be deemed guilty of felony, and on conviction, shall be punished by imprisonment in the State prison at hard labor for not more than three years.

#### \*CHAP. 470, LAWS OF 1857.

#### AN ACT to prevent frauds in the sale of tickets to passengers upon railroads, steamboats and steamships.

##### Sale of tickets.

SECTION 1. No person other than the agents or employees of railroad, steamboat or steamship companies of this State, duly appointed by them for that purpose, by a proper authority in writing, shall offer for sale, or sell within this State, any ticket or tickets or any printed or written instrument issued by or purporting to have been issued by any railroad, steamboat or steamship company, in this State or elsewhere, for the transportation of any passenger or passengers, upon any such railroad, steamboat or steamship, or any instrument wholly or partly printed or written, delivered for the purpose or upon the pretense of the procurement to such passenger or passengers, of any such ticket or tickets, or in any other manner charge, take or receive any money as a consideration or price for such passage or for the procurement of such passage ticket or tickets; and no ticket or tickets, or other evidence as aforesaid, shall be sold or offered for sale by the said agents or employees, except at the offices designated for that purpose by the said companies respectively, or at offices conveniently located by agents of other duly organized railway companies, and at prices not exceeding their regular established rates, provided that nothing in this amendment shall apply to the city and county of New York, or the county of Kings. (*Amended by chap. 820, Laws of 1868.*)

##### Violation of act.

§ 2. Whenever any person or persons shall be complained of and arrested for violating any of the provisions of the first section of this act, it shall be the duty of the magistrate, before whom such complaint is made, to take and reduce to writing, in the presence of the person or persons complained of, the evidence of any witness which may be offered, either on behalf of the prosecution or the party accused, and the depositions so taken shall be respectively subscribed by the witnesses making the same, and certified by the magistrate; and when so taken and certified, the said depositions shall be filed in the office of the clerk of the county in which the offense shall be taken. Upon the trial of any person or persons charged with any offense under the provisions of this act, the testimony taken as

\* Repealed. See pages 490, 491, 492 hereof.

**Penalty for violation of this act.**

§ 3. Any agent, conductor, engineer, brakeman or employee of such railroad corporation, who shall start any train or car, or give any signal or order to any engineer or other person, by signal, rope or otherwise, to start any train or car, or who shall obstruct the ingress or egress of any passenger to or from any car, or who shall open or close a platform gate of any car, in violation of this act, shall be deemed guilty of a misdemeanor, and shall upon conviction be held liable to pay a fine of not less than twenty-five nor more than one hundred dollars, or be imprisoned for not less than ten nor more than ninety days, or both; and any elevated railroad corporation that shall fail or neglect to comply with, or enforce the provisions of this act, shall upon the petition of any citizen to any court of record, and upon due notice to such corporation and proof of such failure or neglect, pay to the clerk of the court wherein such petition is made a sum not less than two hundred and fifty nor more than one thousand dollars, as such court may direct by its order; and the sum so ordered to be paid shall be paid by such clerk of the court to the county treasurer, and shall be distributed by such treasurer equally among the public hospitals of the county in which such proceeding is had, at such times as the board of supervisors or board of aldermen in such county shall direct.

**Construction of act.**

§ 4. Nothing in this act shall be construed to relieve the elevated railroad companies from any liability under which they may now be held by existing laws for damages to persons or property.

**This act to be printed and posted in depots, stations and cars.**

§ 5. The officers and board of directors of such railroad corporations shall immediately cause copies of this act to be printed and posted conspicuously in the depots or stations and in each car belonging to them.

**CHAP. 529, LAWS OF 1887.**

**AN ACT to regulate the hours of labor in the street surface and elevated railroads chartered by the State, in cities of 100,000 inhabitants and over.**

**Hours of labor on surface street and elevated railroads.**

SECTION 1. Ten hours' labor to be performed within twelve consecutive hours, with reasonable time for meals, shall constitute a day's labor in the operation of all street surface and elevated railroads owned or operated by corporations incorporated under the laws of this State, whose main line of travel, or whose routes lie principally within the corporate limits of cities of more than 100,000 inhabitants, whatever motive power may be used in the operation of such railroads.

**Violation of act a misdemeanor.**

§ 2. It shall be a misdemeanor for any officer or agent of any such corporation to exact from any of its employees more than ten hours' labor, the same to be performed within twelve consecutive hours, with not less than one-half hour for dinner, constituting a day; provided, however, that in cases of accident or unavoidable delay, extra labor may be permitted for extra compensation.

**How applicable.**

§ 3. This act shall not affect contracts now in force, nor apply to corporations whose charters are not subject to alteration, modification or repeal.

**Repeal.**

§ 4. All acts inconsistent with this act are hereby repealed.

(This act supersedes chap. 151, Laws of 1886.) As to street roads see, also Laws of 1880. As to elevated roads see, also, chap. 338, Laws of 1881.

## CHAP. 388, LAWS OF 1890.

AN ACT to provide for the weekly payment of wages by corporations.

**Weekly payment of wages required.**

SECTION 1. Every manufacturing, mining or quarrying, lumbering, mercantile, railroad, surface, street, electric and elevated railway (except steam surface railroads), steamboat, telegraph, telephone and municipal corporation, and every incorporated express company and water company shall pay weekly, each and every employe, engaged in its business, the wages earned by such employe, to within six days of the date of such payment, provided, however, that if at any time of payment any employe shall be absent from his regular place of labor, he shall be entitled to said payment at any time thereafter upon demand.

**Penalty for violation; penalties how recovered; assignment of wages when forbidden.**

§ 2. Any corporation violating any of the provisions of this act shall be liable to a penalty not exceeding fifty dollars and not less than ten dollars for each violation, to be paid to the people of the state and which may be recovered in a civil action; provided an action for such violation is commenced within thirty days from the date thereof. The factory inspectors of this state, their assistants or deputies may bring an action in the name of the people of the state as plaintiff against any corporation which neglects to comply with the provisions of this act for a period of two weeks, after having been notified in writing by such inspectors, assistants or deputies, that such action will be brought. On the trial of such action, such corporation shall not be allowed to set up any defense for a failure to pay weekly any employe engaged in its business the wages earned by such employe to within six days of the date of such payment other than a valid assignment of such wages or a valid set-off against the same, or the absence of such employe from his regular place of labor at the time of payment, or an actual tender to such employe at the time of payment of the wages so earned by him, or a breach of contract by such employe, or a denial of the employment. No assignment of future wages, payable weekly, under the provisions of this act shall be valid if made to the corporation from whom such wages are to become due, or to any person on behalf of such corporation, or if made or procured to be made to any person for the purpose of relieving such corporation from the obligation to pay weekly under the provisions of this act. Nor shall any of said corporations require any agreement from any employe to accept wages at other periods than as provided in section one of this act as a condition of employment.

**Proceedings to enforce act.**

§ 3. The provisions of section \*two hundred and sixty-three, and three hundred and eighty-four of the Code of Civil Procedure shall apply to and govern any proceedings brought to enforce the provisions of this act, and it is hereby made the duty of the attorney-general of this state to appear in behalf of such proceedings brought hereunder by the factory inspectors of this state, their assistants or deputies.

§ 4. This act shall take effect on the first day of July, eighteen hundred and ninety.

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\* So in the original.

# THE CODE OF CRIMINAL PROCEDURE OF THE STATE OF NEW YORK.

## SECTIONS APPLICABLE TO RAILROAD COMPANIES.

### Courts of special sessions, jurisdiction of.

SECTION 1. Section fifty-six of the Code of Criminal Procedure is hereby amended so as to read as follows:

§ 56. Subject to the power of removal provided for in this chapter, courts of special sessions, except in the city and county of New York and the city of Albany, have in the first instance exclusive jurisdiction to hear and determine charges of misdemeanors committed within their respective counties, as follows:

\* \* \* \* \*

9. Intoxication of a person engaged in running any locomotive engine upon any railroad, or while acting as a conductor of a car, or train of cars, on any such railroad, or a misdemeanor committed by any person on a railroad car or train. (*Thus amended, Laws of 1890, chap. 521.*)

\* \* \* \* \*

23. Unlawfully frequenting or attending a steamboat landing, railroad depot, church, banking institution, broker's office, place of public amusement, auction room, store, auction sale at private residence, passenger car, hotel, restaurant, or any other gathering of people. (*Thus amended, Laws 1886, chap. 28.*)

### Of crime committed in the State on board of any railway train, etc.

§ 137. When a crime is committed in this State, in or on board of any railway engine, train or car, making a passage or trip on or over any railway in this State, or in respect to any portion of the lading or freightage of any such railway train or engine car, the jurisdiction is in any county through which, or any part of which, the railway train or car passes, or has passed, in the course of the same passage or trip, or in any county where such passage or trip terminates, or would terminate if completed.

### Plea of guilty, how put in.

§ 335. A plea of guilty can only be put in by the defendant himself in open court, except upon an indictment against a corporation, in which case it may be put in by counsel.

### Summons upon an information or presentment against a corporation, by whom issued, and when returnable.

§ 675. Upon an information against a corporation, the magistrate must issue a summons, signed by him, with his name of office, requiring the corporation to appear before him, at a specified time and place, to answer the charge; the time to be not less than ten days after the issuing of the summons.

(3 R. S. 1046, §§ 56, 57, 58.)

### Form of the summons.

§ 676. The summons must be in substantially the following form:

"County of *Albany*, [or as the case may be.]

"In the name of the people of the State of New York:

"To the [naming the corporation.]

"You are hereby summoned to appear before me, at [naming the on [specifying the day and hour], to answer a charge made against upon the information of *A. B.*, for [designating the offense, general]

"Dated at the city, [or 'town,'] of \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

"G. H., *Justice of the Peace.*"

[Or as the case may be.]

**When and how served.**

§ 677. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president, or other head of the corporation, or to the secretary, cashier or managing agent thereof.

**Examination of the charge.**

§ 678. At the time appointed in the summons, the magistrate must proceed to investigate the charge, in the same manner as in the case of a natural person brought before him, so far as those proceedings are applicable.

**Certificate of the magistrate, and return thereof with depositions.**

§ 679. After hearing the proofs, the magistrate must certify upon the depositions, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the depositions and certificate, in the manner prescribed in section 221.

**Grand jury may proceed as in the case of a natural person.**

§ 680. If the magistrate return a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury may proceed thereon as in the case of a natural person held to answer.

**Appearance, and plea to indictment, and proceedings thereon.**

§ 681. If an indictment be found against a corporation, it may appear by counsel, to answer the same. If it do not thus appear, a plea of not guilty must be entered, and the same proceedings had thereon as in other cases.

**Fine, on conviction how collected.**

§ 682. When a fine is imposed upon a corporation, on conviction, it may be collected by virtue of the order imposing it, by the sheriff of the county, out of their real and personal property, in the same manner as upon an execution in a civil action.

# THE PENAL CODE OF THE STATE OF NEW YORK.

## PORTIONS THEREOF APPLICABLE AND RELATING TO RAILROAD CORPORATIONS.

### Compelling employee to agree not to join any labor organization a misdemeanor.

SECTION 171A. Any person or persons, employer or employers of labor, and any person or persons of any corporation or corporations on behalf of such corporation or corporations, who shall hereafter coerce or compel any person or persons, employee or employees, laborer or mechanic, to enter into an agreement, either written or verbal from such person, persons, employee, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person or persons securing employment, or continuing in the employment of any such person or persons, employer or employers, corporation or corporations, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment. (*Chap. 688, Laws of 1887.*)

### Use of force or violence declared not unlawful in certain cases, etc.

Subdivision 5, section 223.

5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them, at their request, in expelling from a carriage, railway car, vessel or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force or violence used is not more than sufficient to expel the offending passenger, with a reasonable regard to his personal safety.

### Advising or inducing employees not to wear uniform a misdemeanor.

§ 425. A person who,

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,

3. Wears the uniform designated by a railway company without authority;

Is guilty of a misdemeanor.

(2 R. S. 534, § 40; 2 R. S., 560, § 143; Laws of 1867, chap. 483, § 1.)

### Arson in second degree.

§ 487. A person who,

4. Willfully burns, or sets on fire, in the night-time, a car, or other vehicle, or a structure or building, ordinarily occupied at night by a human being, although no person is within it at the time.



**Arson in third degree.**

§ 488. A person who willfully burns, or sets on fire, either,

1. A vessel, car, or other vehicle, or a building, structure or other erection, which is at the time insured against loss or damage by fire, with intent to prejudice the insurer thereof; or,

2. A vessel, car or other vehicle, or a building, structure or other erection under circumstances not amounting to arson in the first or second degree.

**Burglary in third degree.**

§ 498. A person who either,

1. With intent to commit a crime therein, breaks and enters a building, or room, or any part of a building; or,

2. Being in any building, commits a crime therein and breaks out of the same;

Is guilty of burglary in the third degree.

(3 R. S. 941, §§ 18, 19.)

**Unlawfully entering building.**

§ 505. A person who, under circumstances or in a manner not amounting to a burglary, enters a building, or any part thereof, with intent to commit a felony or a larceny, or any malicious mischief, is guilty of a misdemeanor.

**"Building," defined.**

§ 504. The term "building," as used in this chapter, includes a railway car, vessel, booth, tent, shop or other erection or inclosure.

**Riding on freight or wood trains; getting on car or train while in motion; obstructing, etc., horse or street railroad cars; punishment.**

§ 426. Riding on freight trains,

1. A person who rides on any engine or any freight or wood car of any railway company, without authority or permission of the proper officers of the company or of the person in charge of said car or engine; or,

2. Who gets on any car or train while in motion (for the purpose of obtaining transportation thereon as a passenger) or,

3. Who willfully obstructs, hinders or delays the passage of any car lawfully running upon any steam or horse or street railway;

Is guilty of a misdemeanor. (*As amended by chap. 458, Laws of 1890.*)

(Laws of 1871, chap. 261; Laws of 1879, chap. 474; Laws of 1880, chap. 370.)

**Penalty for attempting to forward any explosive by railroad without revealing true nature thereof.**

§ 389. A person who makes or keeps gunpowder, nitro-glycerine, or any other explosive or combustible material, within a city or village, or carries such materials through the streets thereof, in a quantity or manner prohibited by law or by ordinance of the city or village is guilty of a misdemeanor. And a person who, by the careless, negligent or unauthorized use or management of gunpowder or other explosive substance, injures, or occasions the injury of, the person or property of another, is punishable by imprisonment for not more than two years. Any person or persons who shall knowingly present, attempt to present, or cause to be presented or offered for shipment, to any railroad, steamboat, steamship, express or other company engaged as common carriers of passengers or freight, dynamite, nitro-glycerine, powder or other explosives dangerous to life or limb, without revealing the true nature of said explosive, or substance so presented or attempted to be offered to the company or carrier to which it all be presented shall be guilty of a felony, and upon conviction shall be fined in any sum not exceeding one thousand dollars and not less than three hundred dollars or imprisonment in a State prison for not less than one year more than five years or be subject to both such fine and imprisonment. (*As amended by chap. 689, Laws of 1887.*)

**Dangering life by maliciously placing explosive near building, car, etc.**

§ 645. A person who places in, upon, under, against or near to, any building, car, vessel or structure, gunpowder or any other explosive



substance, with intent to destroy, throw down or injure the whole or any part thereof, under such circumstances, that if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony.

(See §§ 201, 389, 636.)

#### **Emigrants; sales and exchanges of passenger tickets.**

§ 626. A person who,

1. Sells, or causes to be sold, a passage ticket, or order for such ticket, on any railway, vehicle or vessel, to any emigrant passenger at a higher rate than one and a quarter cents per mile; or,

2. Takes payment for any such ticket or order for a ticket under a false representation as to the class of the ticket, whether emigrant or first-class; or,

3. Directly or indirectly, by means of false representations, purchases or receives from an emigrant passenger any such ticket; or,

4. Procures or solicits any such passenger having such a ticket to exchange the same for another passenger ticket, or to sell the same and purchase some other passenger ticket; or,

5. Solicits or books any passenger arriving at the port of New York from a foreign country before such passenger has left the vessel on which he has arrived, or enters or goes on board any vessel arriving at the port of New York from a foreign country, having emigrant passengers on board, for the purpose of soliciting or booking such passengers; and a person or agent of a corporation employing any person for the purpose of booking such passengers before leaving the ship:

Is guilty of a misdemeanor.

(1 R. S. 1087, §§ 78, 79, 81; Laws of 1853, chap. 218, §§ 7, 8, 9; Laws of 1855, chap. 474, §§ 1, 3, 4.)

#### **"Company" defined.**

§ 627. The term "company," as used in this chapter, includes all corporations, whether created under the laws of this State or of the United States, or those of any other State or nation.

(Laws of 1860, chap. 103, § 13.)

#### **Forging passage tickets.**

§ 516. A person who, with intent to defraud, forges, counterfeits, or falsely alters any ticket, cheque or other paper or writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railway or in any vessel or other public conveyance; and a person who, with like intent, sells, exchanges or delivers, or keeps or offers for sale, exchange or delivery, or receives upon any purchase, exchange or delivery, any such ticket, knowing the same to have been forged, counterfeited or falsely altered, is guilty of forgery in the third degree.

(3 R. S. 954, §§ 93, 94; Laws of 1860, p. 177, chap. 103.)

#### **Injury to railroad track, etc., how punished.**

§ 635. A person who,

1. Displaces, removes, injures or destroys any rail, sleeper, switch, bridge, viaduct, culvert, embankment or structure, or any part thereof, attached, appertaining to or connected with any railway, whether operated by steam or by horses; or,

2. Places any obstruction upon the track of any such railway; or,

3. Willfully discharges a loaded firearm, or projects or throws a stone, or any other missile, at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway; or,

4. Willfully displaces, removes, cuts, injures or destroys any wire, insulator, pole, car, dynamo, motor, locomotive or any part thereof, attached appertaining to or connected with any railway operated by electricity willfully interferes with, or interrupts any motive power used in running said road, or willfully places any such obstruction upon the track of any such railway, or willfully discharges a loaded firearm, or projects or throws a stone, or any other missile, at such a railway train, or locomotive, car or vehicle standing or moving upon such railway, is punishable as follows:

1. If thereby the safety of any person is endangered, by imprisonment for not more than ten years.

2. In every other case, by imprisonment for not more than three years or by a fine of not more than two hundred and fifty dollars, or both.

*amended, Laws of 1890, chap. 280.)*

**Altering, etc., signal or light for railway engine or train.**

§ 638. A person who, with intent to bring a vessel, railway engine, or railway train into danger, either,

1. Unlawfully or wrongfully shows, masks, extinguishes, alters, or removes a light or other signal; or
2. Exhibits any false light or signal;

Is punishable by imprisonment for not more than ten years.

**Frauds in subscriptions for stock of corporations.**

§ 590. A person who signs the name of a fictitious person to any subscription for, or agreement to take, stock in any corporation existing or proposed; and a person who signs to any subscription or agreement the name of any person, knowing that such person does not intend in good faith to comply with the terms thereof, or under any understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced, is guilty of a misdemeanor.

§ 615 repealed; Laws, 1882.

**Sale by authorized agents restricted.**

§ 616. No person, except as allowed in section 622, shall ask, take or receive any money or valuable thing as a consideration for any passage or conveyance upon any vessel or railway train, or for the procurement of any ticket or instrument, giving or purporting to give a right, either absolutely or upon a condition or contingency, to a passage or conveyance upon a vessel or railway train, or a berth or state-room on a vessel, unless he is an authorized agent within the provisions of the last section; nor shall any person, as such agent, sell or offer to sell any such ticket, instrument, berth or state-room, or ask, take or receive any consideration for any such passage, conveyance, berth or state-room, excepting at the office designated in his appointment, nor until he has been authorized to act as such agent according to the provisions of the last section, nor for a sum exceeding the price charged at the time of such sale by the company, owners or consignees of the vessel or railway mentioned in the ticket. But a person who shall have purchased a ticket in good faith for his own passage, and shall have been prevented from, using the same, may sell the ticket at any price not greater than the regular rate established therefor to another person in good faith for his own use.

(Laws of 1860, chap. 103, § 2; Laws of 1857, chap. 470, § 1; Laws of 1868, chap. 820; Laws of 1876, chap. 201.)

**Unauthorized persons forbidden to sell certificates, receipts, etc., for the purpose of procuring tickets.**

§ 617. No person other than an agent appointed, as provided in section 615, shall sell, or offer to sell, or in any way attempt to dispose of any order, certificate, receipt or other instrument, for the purpose, or under the pretense, of procuring any ticket or instrument mentioned in section 615, upon any company or line, vessel or railway train therein mentioned. And every such order sold or offered for sale by any such agent must be directed to the company, owners or consignees at their office.

(Laws of 1860, chap. 103, § 3; Laws of 1857, chap. 470; Laws of 1868, chap. 820; Laws of 1876, chap. 201.)

**Punishment for violation of the preceding sections.**

§ 618. A person guilty of a violation of any of the provisions of the preceding sections of this chapter is punishable by imprisonment in a State prison not exceeding two years, or by imprisonment in a county jail not less than six months.

(Laws of 1860, chap. 103, § 4; Laws of 1857, chap. 470, § 1; Laws of 1868, chap. 820; Laws of 1876, chap. 201.)

**Conspiring to sell passage tickets in violation of law.**

§ 619. All persons who conspire together to sell, or attempt to sell, to any person, any passage ticket, or other instrument mentioned in sections 615 and 616, in violation of those sections, and all persons who, by means of any such conspiracy, obtain, or attempt to obtain, any money or other property, under the pretense of procuring or securing any passage or

right of passage in violation of this chapter, are punishable by imprisonment in a State prison not exceeding five years.

(Laws of 1860, chap. 103, § 5; Laws of 1857, chap. 470; Laws of 1868, chap. 320; Laws of 1870, chap. 103, § 5; Laws of 1870, chap. 423.)

**Conspirators may be indicted, notwithstanding object of conspiracy has not been accomplished.**

§ 620. Persons guilty of violating the last section may be indicted and convicted for a conspiracy, though the object of such conspiracy has not been executed.

(Laws of 1860, chap. 103, § 6; Laws of 1870, chap. 423, § 6; see § 171.)

**Offices kept for unlawful sale of passage tickets, declared disorderly houses.**

§ 621. All offices kept for the purpose of selling passage tickets in violation of any of the provisions of this chapter, and all offices where any such sale is made, are deemed disorderly houses; and all persons keeping any such office, and all persons associating together for the purpose of violating any of the provisions of this chapter, are punishable by imprisonment in a county jail, for a period not exceeding six months, and not less than three months.

(Laws of 1860, chap. 103, § 7; Laws of 1870, chap. 423.)

**Station masters, conductors, etc., allowed to sell tickets.**

§ 623. The provisions of this chapter do not prevent the station master or other ticket agent upon any railway, from selling in his office at any station on such railway, any passage tickets upon such railway; nor do they prevent any conductor upon a railway from selling such tickets upon the trains of such railway.

**Liability of persons in charge of steam engines.**

§ 199. An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam employed in a boat or railway, or in a manufactory, or in any mechanical works, who willfully, or from ignorance or gross neglect, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, engine or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

(3 R. S. 934, § 21; Id. 973, § 31; 2 R. S. (Edm.) 717, § 25; 1 Whart. Cr. Law, § 362; see, also, §§ 362, 424, *post*.)

**Mismanagement of steam boilers.**

§ 362. An engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or employing steam employed in a railway, manufactory, or other mechanical works, who, willfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

(3 R. S. 973, § 31; see § 199, *ante*.)

**Employment of engineer who cannot read.**

§ 418. A person who, as an officer of a corporation or otherwise, knowingly employs as an engineer or engine driver to run locomotives or trains on any railway in this State a person who cannot read the time-tables and ordinary handwriting, is guilty of a misdemeanor.

(2 R. S. 531, § 42; Laws of 1870, chap. 636, §§ 1, 3.)

**Person acting as engineer who cannot read.**

§ 419. A person who, being unable to read the time-tables of the and ordinary handwriting, acts as an engineer, or runs a locomotive train on any of the railways in this State, is guilty of a misdemeanor

(2 R. S. 534, § 43; Laws of 1870, chap. 636, §§ 2, 3.)

**Intoxication of persons running trains and boats.**

§ 420. A person who, being employed upon any railway as engineer, conductor, baggage-master, brakeman, switch-tender, fireman, bridge-tender, flagman, signal-man, or having charge of stations, starting, regulating or running trains upon a railway, or being employed as captain, engineer or other officer of a vessel propelled by steam is intoxicated while engaged in the discharge of any of such duties, is guilty of a misdemeanor.

(2 R. S. 911, § 39; Laws of 1857, chap. 628, § 31; Laws of 1871, chap. 560; Code Crim. Proc., § 56.)

**Failure to ring bell, etc.**

§ 421. A person acting as engineer driving a locomotive on any railway in this State, who fails to ring the bell or sound the whistle upon such locomotive, or cause the same to be rung or sounded at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except in cities), or to continue the ringing such bell or sounding such whistle at intervals until such locomotive and the train to which the locomotive is attached shall have completely crossed such road or street, is guilty of a misdemeanor.

(2 R. S. 542, § 61; Laws of 1850, chap. 140, § 61; Laws of 1854, chap. 282.)

**Placing passenger car in front of merchandise or freight car.**

§ 422. A person, being an officer or employee of a railway company, who knowingly places, directs, or suffers a freight, lumber, merchandise, or oil car to be placed in rear of a car used for the conveyance of passengers in a railway train, is guilty of a misdemeanor. (*Thus amended, Laws of 1889, chap. 287.*)

**Platforms.**

§ 423. A railway company, and any officer or director having charge thereof, and any person managing a railway in this State, or which runs its cars into or through this State, who fails to have the platforms or ends of the passenger cars constructed in such a manner as will prevent passengers falling between the cars when in motion, is guilty of a misdemeanor.

(2 R. S. 560, § 143; Laws of 1867, chap. 483.)

**Other violations of duty by officers, agents or servants of railroad companies.**

§ 424. An engineer, conductor, brakeman, switch-tender or other officer, agent or servant of any railway company, who is guilty of any willful violation or omission of his duty as such officer, agent or servant, by which human life or safety is endangered, the punishment of which is not otherwise prescribed, is guilty of a misdemeanor.

(Laws of 1867, chap. 483, § 1, in part; see § 199, *ante*.)

**Officer of corporation selling, etc., forged or fraudulent scrip, etc.**

§ 518. An officer, agent or other person employed by any company or corporation existing under the laws of this State, or of any other State or territory of the United States, or of any foreign government, who willfully and with a design to defraud, sells, pledges or issues, or causes to be sold, pledged or issued, or signs or procures to be signed with intent to sell, pledge or issue, or to be sold, pledged or issued, a false, forged or fraudulent paper, writing or instrument, being or purporting to be a scrip, certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, is guilty of forgery in the third degree, and upon conviction, in addition to the punishment prescribed in this title for that offense, may also be sentenced to pay a fine not exceeding \$3 000.

R. S. 946, §§ 49, 50; § 591, *post*.)

**Sely indicating person as corporate officer.**

519. The false making or forging of an instrument or writing, purporting to have been issued by or in behalf of a corporation or association,

State or government, and bearing the pretended signature of any person, therein falsely indicated as an agent or officer of such corporation, is forgery in the same degree, as if that person were in truth such officer or agent of the corporation or association, State or government.

(3 R. S. 946, § 48; 2 R. S. (Edm.) 695, § 47; Laws of 1855, chap. 155.)

#### **Terms "forge" and "forging."**

§ 520. The expression "forge," "forged" and "forging," as used in this chapter, include false making, counterfeiting and the alteration, erasure, or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature of a party or witness, and the placing or connecting together with intent to defraud different parts of several genuine instruments.

(3 R. S. 946, § 44.)

#### **Fraudulent issue of stock, scrip, etc.**

§ 591. An officer, agent or other person in the service of any joint-stock company, or corporation formed or existing under the laws of this State, or of the United States, or of any State or territory thereof, or of any foreign government or country, who willfully and knowingly, with intent to defraud, either,

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or executes, or causes to be signed or executed, with intent to sell, pledge or issue, or to cause to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation, without being first thereto duly authorized by such company or corporation, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation, or of the limit imposed by law or otherwise upon its power to create or issue stock or evidences of debt; or,

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer or ownership of any such share or shares;

Is punishable by imprisonment for not less than three years nor more than seven years, or by a fine not exceeding \$3,000, or by both.

(Laws of 1855, chap. 155, §§ 1, 2.)

#### **Frauds in procuring organization of corporation, or increase of capital.**

§ 592. An officer, agent or clerk, of a corporation, or of persons proposing to organize a corporation, or to increase the capital stock of a corporation, who knowingly exhibits a false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a State prison not exceeding ten years and not less than three years.

(See Laws of 1829, chap. 94, § 29.)

#### **Misconduct of directors of stock corporations.**

§ 594. A director of a stock corporation, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended.

1. To make a dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,

2. To divide, withdraw, or in any manner pay to the stockholders, of them, any part of the capital stock of the corporation; or to reduce the capital stock without the consent of the Legislature; or,

3. To discount or receive any note or other evidence of debt in part of an installment of capital stock actually called in, and required to be paid, or with intent to provide the means of making such payment;

4. To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid for him on his stock; or,

5. To apply any portion of the funds of such corporation, except surplus, profits, directly or indirectly, to the purchase of shares of its own stock; or,

6. To receive any such shares in payment or satisfaction of a debt due to such corporation; or,

7. To receive in exchange for the shares, notes, bonds, or other evidences of debt of such corporation, shares of the capital stock or notes, bonds or other evidences of debt issued by any other stock corporation;

Is guilty of a misdemeanor.

(2 R. S., 297, § 1; Laws of 1869, chap. 742, § 7.)

**Frauds in keeping accounts, etc.**

§ 602. A director, officer or agent of any corporation or joint-stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof, in the books or accounts of such corporation or association; and a director, officer, agent or member of any corporation or joint-stock association, who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in a State prison not exceeding ten years, and not less than three years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding \$500, or by both such fine and imprisonment.

(Laws of 1823, chap. 94, § 29; Laws of 1843, chap. 218, § 6.)

**Officer of corporation publishing false reports of its condition.**

§ 603. A director, officer or agent of any corporation or joint-stock association, who knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false, other than such as are elsewhere, by this Code, specially made punishable, is guilty of a misdemeanor.

(Laws of 1874, chap. 440, §§ 1, 2.)

(Sections 607 and 608 repealed by chapter 377, Laws of 1884.)

**Director of corporation presumed to have knowledge of its affairs.**

§ 609. A director of a corporation or joint-stock association must be deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors, is a violation of this chapter.

(2 R. S. 299, § 14.)

**Director present at meeting, when presumed to have assented to proceedings.**

§ 610. A director of a corporation, or joint-stock association, who is present at a meeting of the directors, at which any act, proceeding or omission of such directors in violation of this chapter occurs, must be deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors.

(2 R. S., 298, §§ 12, 13.)

**Director absent from meeting, when presumed to have assented to proceedings.**

1. A director of a corporation, or joint-stock association, although absent at a meeting of the directors, at which any act, proceeding or omission of such directors, in violation of this chapter, occurs, must be deemed to have concurred therein, if the facts constituting such violation appear on the record or minutes of the proceedings of the board of directors, and he remains a director of the same company for six months thereafter, without causing, or in writing requiring, his dissent from such act, proceeding or omission to be entered in the minutes of the directory.

**Failure of director to disclose service of notice of application for injunction.**

§ 612. A director, trustee or other officer of a joint-stock association or corporation, upon whom a notice of application for an injunction affecting the property or business of such joint-stock association or corporation is served, who omits to disclose to the other directors, officers or managers thereof, the fact of such service, and the time and place of such application, is guilty of a misdemeanor.

(Laws of 1870, chap. 151, § 1.)

**Foreign corporations subject to provisions of this chapter.**

§ 613. It is no defense to a prosecution for violation of the provisions of this chapter, that the corporation was one created by the laws of another State, government or country, if it carried on business, or kept an office therefor, within this State.

**"Director" defined.**

§ 614. The term "director," as used in this chapter, embraces any of the persons having by law the direction or management of the affairs of a corporation, by whatever name such persons are described in its charter, or are known in law.

(2 R. S. 304, § 56.)

**Carrying animals in a cruel manner, a misdemeanor.**

§ 659. A person who carries, or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

(3 R. S. 974, § 38; Laws of 1889, chap. 209; Laws of 1867, chap. 375, § 5; § 663, *post*.)

**Transporting animals for more than twenty-four consecutive hours a misdemeanor.**

§ 663. A railway corporation, or an owner, agent, consignee, or person in charge of any horse, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-four consecutive hours, without unloading for rest, water and feeding, during ten consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed. If the owner, agent, consignee, or other person in charge of any such animals refuses or neglects upon demand to pay for the care or feed of the animals while so unloaded or rested, the railway company, or other carriers thereof, may charge the expense thereof to the owner or consignee and shall have a lien thereupon for such expense.

(3 R. S. 974, § 38; Laws of 1866, chap. 560, § 1.)

**Definitions.**

§ 669. 1. The word "animal," as used in this title, does not include the human race, but includes every other living creature;

2. The word "torture" or "cruelty" includes every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted;

3. The words "impure and unwholesome milk" include all milk obtained from animals in a diseased or unhealthy condition, or who are fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or fermentation.

(3 R. S. 976, § 51; Laws of 1874, chap. 12, § 8; Laws of 1862, chap. 467, § 4.)

**Innkeepers and carriers refusing to receive guests and passenger**

§ 381. A person who, either on his own account or as agent or officer, corporation, carries on business as innkeeper, or as common carrier of passengers, and refuses, without just cause or excuse, to receive and enter any guest, or to receive and carry any passenger, is guilty of a misdemeanor.

(See § 383, *post*.)

**No exclusion because of race, color, etc.**

§ 383. No citizen of this State can, by reason of race, color, or previous condition of servitude, be excluded from the equal enjoyment of any accommodation, facility or privilege furnished by innkeepers or common carriers, or by owners, managers, or lessees of theaters or other places of amusement by teachers and officers of common schools and public institutions of learning, or by cemetery associations. The violation of this section is a misdemeanor, punishable by a fine of not less than \$50, nor more than \$500.

(1 R. S. 377, §§ 24-26; see § 381, ante.)

**Issuing fictitious bills of lading, etc.**

§ 628. A person being the master, owner or agent of any vessel, or officer or agent of any railway, express or transportation company, or otherwise being or representing any carrier who delivers any bill of lading, receipt or other voucher, by which it appears that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express or transportation company, or other carrier, unless the same has been so shipped or delivered, and is at the time actually under the control of such carrier, or the master, owner, or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

(2 R. S. 229; Laws of 1858, chap. 326, § 5; Laws of 1859, chap. 333; Laws of 1866, chap. 440.)

**Erroneous bills of lading or receipts issued in good faith excepted.**

§ 630. No person can be convicted of an offense under the last two sections for the reason that the contents of any barrel, box, case, cask, or other vessel or package mentioned in the bill of lading, receipt or other voucher did not correspond with the description given in such instrument of the merchandise received, if such description corresponds substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels or brands were untrue.

**Duplicate receipts must be marked "duplicate."**

§ 631. A person mentioned in sections 628 and 629, who issues any second or duplicate receipt or voucher of a kind specified in those sections at a time while a former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

**Selling, hypothecating or pledging property received for transportation or storage.**

§ 632. A person mentioned in sections 628 and 629, who sells or pledges any merchandise for which a bill of lading, receipt or voucher has been issued by him without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

(2 R. S. 229, § 4. Laws of 1858, chap. 326; Laws of 1859, chap. 333; Laws of 1866, chap. 440.)

**Property demanded by process of law.**

§ 634. The last two sections (§§ 632 and 633) do not apply to any case in which property is demanded by virtue of legal process.

S. 229, § 8.]



# INTERSTATE COMMERCE ACT.

APPROVED FEBRUARY 4, 1887, AND AS AMENDED BY ACT APPROVED MARCH 2, 1889.

## **Carriers and transportation subject to the act.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

## **What the terms "railroad" and "transportation" include.**

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

## **Charges to be reasonable.**

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

## **Unjust discrimination forbidden.**

§ 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited, and declared to be unlawful.

## **Undue or unreasonable preference or advantage forbidden.**

§ 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation,

or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

#### Facilities for interchange of traffic.

Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

#### Long and short haul provision.

§ 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however*, that upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

#### Pooling of freights and division of earnings forbidden.

§ 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

#### Printing and posting of schedules of rates, fares, and charges.

§ 6. (*As amended*.) That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places, in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and conveniently inspected.

#### Printing and posting of schedules of rates on freight carried through a foreign country.

Every common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any other part of the United States shall also in like manner print and keep open to

public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

**Ten days' public notice of advance in rates to be given; three days' public notice of reduction in rates to be given.**

No advance shall be made in the rates, fares and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Reductions in such published rates, fares, or charges shall only be made after three days' previous public notice, to be given in the same manner that notice of an advance in rates must be given.

**Published rates not to be deviated from.**

And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

**Copies of schedules of rates, fares and charges to be filed with Commission; copies of contracts and agreements to be filed with Commission; joint tariffs to be filed with Commission; power of Commission to prescribe publicity.**

Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements, with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish and the places in which they shall be published.

**Ten days' notice to Commission of advance in joint rates, fares, and charges; three days' notice to Commission of reduction in rates, fares, and charges; power of Commission to make advance or reductions public.**

No advance shall be made in joint rates, fares, and charges, upon joint tariffs, except after ten days' notice to the Commission.

shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect. No reduction shall be made in joint rates, fares, and charges, except after three days' notice, to be given to the Commission as is above provided in the case of an advance of joint rates. The Commission may make public such proposed advances, or such reductions, in such manner as may, in its judgment, be deemed practicable, and may prescribe from time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

**Joint rates, fares, and charges not to be deviated from.**

It shall be unlawful for any common carrier, party to any joint tariff, to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare, or charge is named thereon than is specified in the schedule filed with the Commission in force at the time.

**Commission may prescribe forms of schedules of rates, fares, and charges.**

The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time as shall be found expedient.

**Penalties for neglecting or refusing to file or publish rates, fares, and charges.**

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties, herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated, or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commissioners appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several States and territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

**Continuous carriage of freights not to be unnecessarily interrupted.**

§ 7. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by any common carrier shall prevent the carriage of freights from being being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without intent to avoid or unnecessarily interrupt such continuous carriage or evade any of the provisions of this act.

**bility of common carriers for damages.**

3. That in case any common carrier subject to the provisions of this shall do, cause to be done, or permit to be done any act, matter or

thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

**Persons claiming to be damaged may complain to Commission or bring suit in United States courts: officers, etc., of defendant may be compelled to testify.**

§ 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

**Penalties for violations of act by carriers, their officers or agents; fine and imprisonment.**

§ 10. (*As amended.*) That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person, acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense: *Provided*, that if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges, for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

**Penalties for false billing, etc., by carriers, their officers or agents; fine and imprisonment.**

Any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any officer or agent thereof, or person acting for or employed by such corporation, who, by means of false billing, false classification, false weighing, or false report of weight, or any other device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person or persons to obtain transportation for property at less than the regular rates then established and in force the line of transportation of such common carrier, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court

United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

**Penalties for false billing, etc., by shippers and other persons; fine and imprisonment.**

Any person and any officer or agent of any corporation or company who shall deliver property for transportation to any common carrier, subject to the provisions of this act, or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and willfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property at less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject for each offense to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court.

**Penalties for inducing common carriers to discriminate unjustly—fine and imprisonment; joint liability with carrier for damages.**

If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise, induce any common carrier subject to the provisions of this act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common carrier, be liable jointly or severally, in an action on the case to be brought by any consignor or consignee discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom.

**Interstate Commerce Commissioners—how appointed—terms of Commissioners.**

§ 11. That a Commission is hereby created and established to be known as the Interstate Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners first appointed under this act shall continue in office for the term of two, three, four, five, and six years, respectively, from the first day of January, anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the Commissioner whom he succeeds. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners

shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

**Power of Commission to inquire into business of carriers; Commission required to enforce the provisions of the act; power of the Commission to require attendance of witnesses and production of books and papers.**

§ 12. (*As amended.*) That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and the Commission is hereby authorized and required to execute and enforce the provisions of this act; and, upon the request of the Commission, it shall be the duty of any district attorney of the United States to whom the Commission may apply to institute in the proper court and to prosecute under the direction of the Attorney-General of the United States, all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this act the Commission shall have power to require, by subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and in case of disobedience to a subpoena, the Commission, or any party to a proceeding before the Commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

**Punishment for refusal to testify or produce books and papers.**

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

**Complaints to Commission; how and by whom made; reparation by carriers before investigation; investigations by the Commission.**

§ 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.



Said Commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or territory, at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

**Findings of Commission prima facie evidence in judicial proceedings.**

§ 14. (*As amended.*) That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured; and such findings so made shall thereafter, in judicial proceedings, be deemed prima facie evidence as to each and every fact found.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

**Reports and decisions; authorized publication to be competent evidence; publication and distribution of annual reports of Commission.**

The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained, in all courts of the United States, and of the several States, without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports.

**Notice to common carrier to cease from violation of act; compliance with notice to cease from violation of act; reparation.**

§ 15. That if in any case in which an investigation shall be made by said Commission it shall be made to appear to the satisfaction of the Commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said Commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the Commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the Commission; and if, within the time specified, it shall be made to appear to the Commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the Commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

**Petition to United States courts in cases of disobedience to order of Commission; power of United States courts to hear and determine cases of disobedience; writs of injunction or other process against carriers in cases of disobedience; punishment for refusal to obey writs of injunction or other proper process; fine; appeals to Supreme Court of United States.**

(*As amended.*) That whenever any common carrier, as defined in subject to the provisions of this act, shall violate, or refuse or neglect to obey or perform any lawful order or requirement of the Commission issued by this act, not founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, it shall be lawful for the Commission or for any company or



person interested in such order or requirement, to apply in a summary way, by petition, to the Circuit Court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents, or servants in such manner as the court shall direct; and said court shall proceed to hear and determine the matter as speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the findings of fact in the report of said Commission shall be prima facie evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said Commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said Commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction, or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money, not exceeding for each carrier or person in default the sum of five hundred dollars for every day, after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining or into court, to abide the ultimate decision of the court, or into the treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court. When the subject in dispute shall be of the value of two thousand dollars or more, either party to such proceeding before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon; and such court may, in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented by the Commission it shall be the duty of the district attorney, under the direction of the Attorney-General of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the of the United States.

**Petition to United States courts in cases of disobedience when trial by jury is necessary; trial by jury; trial by court; appeals to Supreme Court of United States; counsel or attorney's fees.**

If the matters involved in any such order or requirement of said Commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to c-

perform the same, after notice given by said Commission as provided in the fifteenth section of this act, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the Circuit Court of the United States sitting as a court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience as the case may be; and said court shall by its order then fix a time and place for the trial of said cause, which shall not be less than twenty, nor more than forty days from the time said order is made, and it shall be the duty of the marshal of the district in which said proceedings is pending to forthwith serve a copy of said petition, and of said order, upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same upon them as aforesaid. At the trial the findings of fact of said Commission as set forth in its report shall be prima facie evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury, the court shall, by its order, direct the marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing, then the court shall try the issues in said cause and render its judgment thereon. If the subject in dispute shall be of the value of two thousand dollars or more, either party may appeal to the Supreme Court of the United States under the same regulations now provided by law in respect to security for such appeal; but such appeal must be taken within twenty days from the day of the rendition of the judgment of said Circuit Court. If the judgment of the Circuit Court shall be in favor of the party complaining, he or they shall be entitled to recover a reasonable counsel or attorney's fee, to be fixed by the court, which shall be collected as part of the costs in the case. For the purposes of this act, excepting its penal provisions, the Circuit Courts of the United States shall be deemed to be always in session.

**Interstate Commerce Commission; form of procedure; official seal.**

§ 17. (*As amended.*) That the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the Commission shall constitute a quorum for the transaction of business, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said Commission and be heard, in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said Commission shall have an official seal, which shall be judicially noticed. Either of the members of the Commission may administer oaths and affirmations and sign subpoenas.

**Salaries of Commissioners; secretary—how appointed; salary; offices and supplies; witnesses' fees.**

§ 18. (*As amended.*) That each Commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the judges of the courts of the United States. The Commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The Commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties. If otherwise provided by law, the Commission may hire suitable offices its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

**Uses of the Commission—how paid.**

of the expenses of the Commission, including all necessary expenses of transportation incurred by the Commissioners, or by their employees

under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the chairman of the Commission.

**Principal office of the Commission; sessions of the Commission.**

§ 19. That the principal office of the Commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

**Carriers subject to the act must render full annual reports to Commission; Commission may prescribe methods of keeping accounts.**

§ 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance-sheet. Such report shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts with other common carriers, as the Commission may require; and the said Commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the Commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

**Annual reports of the Commission to Congress.**

§ 21. (*As Amended.*) That the Commission shall, on or before the first day of December in each year, make a report, which shall be transmitted to Congress, and copies of which shall be distributed as are the other reports transmitted to Congress. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary; and the names and compensation of the persons employed by said Commission.

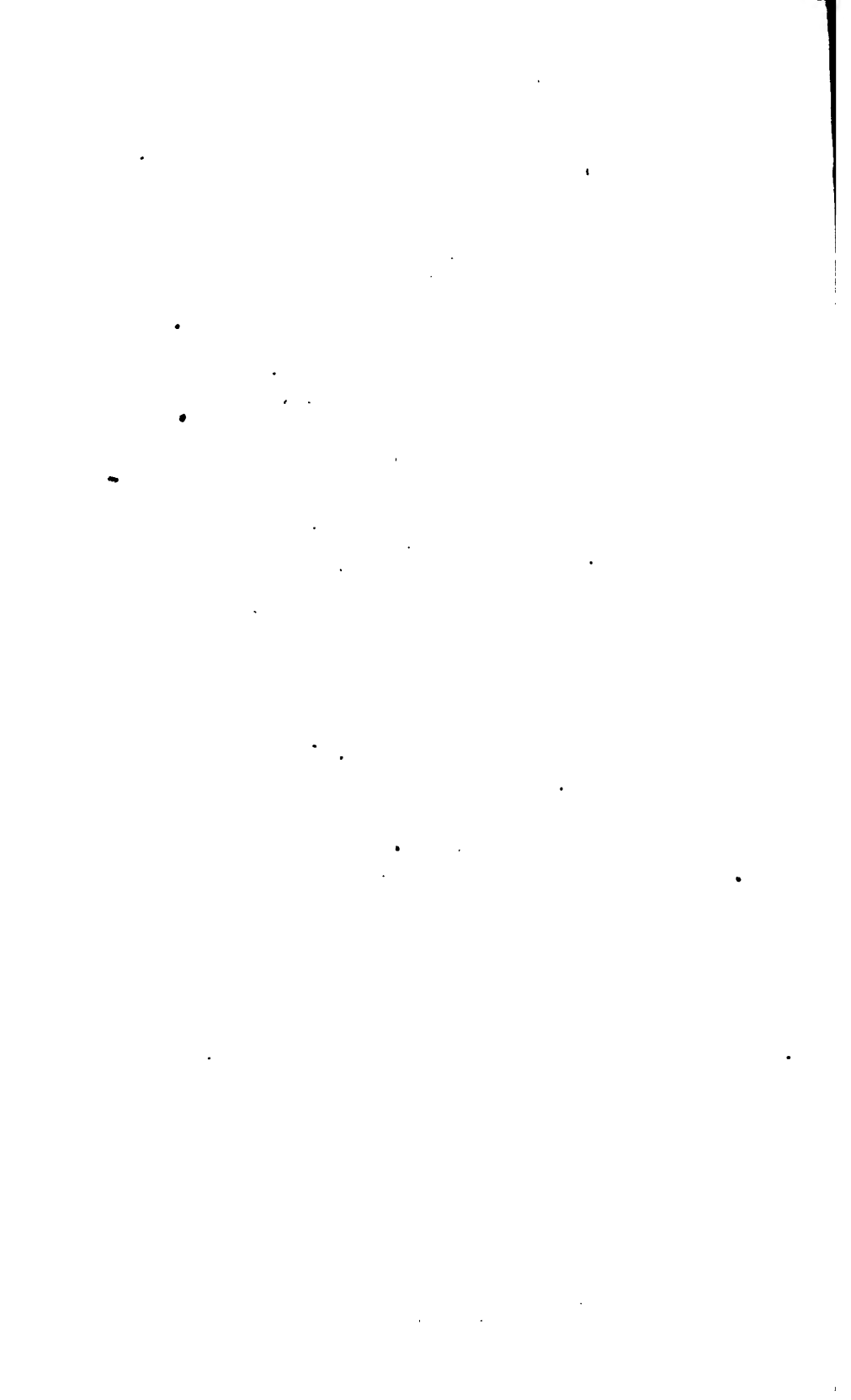
**Persons and property that may be carried free or at reduced rates; mileage, excursion, or commutation passenger tickets; passes and free transportation to officers and employees of railroad companies; pending litigation not affected by act.**

§ 22. (*As amended.*) That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in

act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangement with the boards of managers of said homes; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act.

**Jurisdiction of United States courts to issue writs of peremptory mandamus, commanding the movement of interstate traffic or the furnishing of cars or other transportation facilities.**

(*New section.*) That the circuit and district courts of the United States shall have jurisdiction upon the relation of any person or persons, firm, or corporation, alleging such violation by a common carrier, of any of the provisions of the act to which this is a supplement and all acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: *Provided*, that if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided*, that the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or the act to which it is a supplement



# INDEX TO LAWS.

	PAGE.
<b>Accidents.</b>	
laws relating to .....	482, 483
railroad superintendents to furnish information of, to Railroad Commissioners ..	353
<b>Altering signal or light, how punished .....</b>	491
<b>Animals.</b>	
carrying same in a cruel manner, a misdemeanor .....	496
how defined .....	496
limit of confinement in cars .....	496
driving same on railroad a misdemeanor .....	348
infectious and contagious diseases of .....	480
<b>Annual report.</b>	
form of, .....	345, 355
when and where to be filed .....	345-355, 421
penalty for failure to make report .....	345
<b>Arson.</b>	
setting fire to car, etc., when arson in second degree .....	488
setting fire to car, etc., when arson in third degree .....	489
<b>Articles of association.</b>	
company, how formed by .....	333
what to contain .....	333
affidavit that \$1,000 stock per mile has been subscribed to be recorded with ..	333
articles .....	333
purchasers of franchise at judicial sale may file articles of association .....	334
legislative power to dissolve corporation .....	348
extension of corporate existence, how effected .....	376
when corporate powers shall cease .....	348, 380
extending time of construction .....	380
may diminish capital stock .....	381
defective, how amended .....	361
directors may be chosen after articles signed .....	362
of railroads formed for the purpose of constructing and operating railroads in ..	428, 429, 430
foreign countries .....	432
may acquire and hold real estate and other securities in other states and foreign ..	378
countries .....	375
narrow-gauge roads, how incorporated .....	375
cable roads, how formed .....	387-390
under foreclosure .....	
<b>Assessment. See TAXATION.</b>	
<b>Badge.</b>	
conductor and servants must wear .....	345, 399
<b>Baggage.</b>	
checks for .....	347, 370
rights of intersecting and connecting roads in transportation of .....	362
reckless injury to .....	474
sale of unclaimed .....	386, 477
description of, to be published in State paper .....	477
if not claimed in sixty days to be opened and inventoried .....	477
expense to be lien on property .....	477
<b>Bell.</b>	
to be rung or whistle to be blown at crossings .....	493
neglect to ring or blow whistle, penalty .....	493
<b>Bills of lading.</b>	
issuing fictitious, how punished .....	497
erroneous excepted, if issued in good faith .....	497
duplicate receipts, must be marked as such .....	497
misstating goods covered by, how punished .....	497
<b>of Railroad Commissioners.</b>	
creating, regulating and prescribing powers, duties, etc .....	352 et seq.
filed copies of official documents .....	357
of .....	358
for certified papers .....	358
in regard to secretary, subpoenas, accountant, inspector and clerical force ..	358, 359
ers in matter of railroads crossing each other at grade .....	473
ers in relation to car-heating .....	476
ers as to guard-posts in prolongation of line of bridge trusses .....	476
ers as to increase of stock .....	335, 368
ers of, as to cessation of railroads in winter .....	475

<b>Board of Railroad Commissioners — (Continued).</b>	PAGE.
powers of, as to automatic freight couplers .....	474
powers of, as to change of motive power on street roads .....	483
powers of, as to non-extension of a reorganized road .....	588
powers of, as to cooking stoves in dining cars .....	475
powers of, as to issue of bonds .....	344
powers of, as to abandonment of portion of street road .....	419
<b>Bonds, railroad.</b>	
consent of stockholders requisite to issue of .....	344
power of railroad companies to issue .....	344
power to convert bonds into stock .....	344
how made non-negotiable .....	469
how transferred after being made non-negotiable .....	469
town bonding acts .....	461-470
voting of regulated .....	442
<b>Brakes.</b>	
kind to be used .....	474
<b>Bridges.</b>	
guard-posts to be placed in prolongation of line of bridge trusses .....	475
<b>Bridging, excavating and tunneling.</b>	
general provisions in regard to .....	453 et seq
<b>Burglary.</b>	
in third degree defined .....	489
unlawfully entering building, etc. ....	489
building defined .....	489
<b>Cable road.</b>	
how formed .....	375
<b>Canals.</b>	
power of directors to change grade or route where track crosses canal .....	361, 375
power of canal commissioners over so much of track as crosses or approaches within ten rods of canal .....	380
parties owning canal may construct railroads on sides or in lieu thereof .....	423
<b>Capital stock.</b>	
amount of, for every mile of road constructed .....	333
articles of association to designate number of shares of .....	333
subscriptions to, after articles of association are filed .....	334
ten per cent of amount subscribed to be paid in cash at time of subscribing .....	333
subscriptions, how paid .....	335
subscriptions, how forfeited .....	335
sixty days' notice of intention to forfeit same to be given .....	335
to be personal estate .....	335
how increased .....	355, 368
held by municipal corporations, how represented in consolidation with Pennsylvania companies .....	367
of railroads in foreign countries .....	431, 432
wrongful increase of, a misdemeanor .....	336
stock may be reduced .....	363, 381
reduction of stock not to relieve holder or owner of same from personal liability, existing prior to reduction .....	381
notice of meeting to reduce stock .....	381
a vote of two-thirds of all shares necessary to reduce stock .....	381
certificates of proceedings to reduce same, how made .....	381
comptroller to approve certificate of proceedings .....	381
preferred stock, how exchanged for common .....	382
whole amount of stock not to be increased by the exchange of preferred for common .....	382
manner of subscribing for .....	384
fraud in procuring subscriptions for same a misdemeanor .....	491
fraud in issue of .....	494
the voting of, regulated .....	442
lessee of corporation may exchange its, for that of leased road .....	382, 383
company prohibited from purchasing its own or other companies' stock .....	338
amount of stock per mile to be subscribed .....	333
officer of railroad company prohibited from selling its stock "short" .....	443
sale of stock and bonds of bankrupt road by municipal corporations .....	469
See Foreclosure.	
<b>Car heating.</b>	
passenger cars not to be heated by stoves .....	473
provisions of this act not applicable to certain roads .....	475
Railroad Commissioners may extend time for heating by steam in certain cases on narrow-gauge roads .....	
<b>Car lighting.</b>	
oil to be not less than 300 degrees Fahrenheit .....	
<b>Cattle-guards.</b>	
railway companies to maintain same .....	
lessee to maintain .....	
<b>Cemeteries.</b>	
street, road, avenue or thoroughfare not to be laid out through rural cemetery except in certain cases .....	

<b>Chattel mortgage.</b>	PAGE.
when not necessary to file .....	447
<b>Chautauqua assembly grounds.</b>	
no railway to be constructed or operated thereon without written consent of the board of trustees.....	440
<b>Children.</b> See minors.	
<b>Common carriers.</b>	
railroad companies entitled to rights of, and liable as.....	368
<b>Commissioners of appraisal to acquire real estate.</b> See Real Estate and Condemnation of real property.	
<b>Commissioners of highways.</b>	
powers of, as to railroad crossing the same.....	343, 440
may bring action against railroad corporation to protect rights of public as to highways.....	441
<b>Competing lines.</b>	
to have equal facilities and accommodations from other railroads as to transportation of passengers and freight.....	362
<b>Condemnation of real property.</b>	
general provisions as to.....	323 <i>et seq.</i>
terms used defined.....	323
title to real estate how acquired.....	323
petition to Supreme Court, what to contain.....	323
notice of presentation of petition.....	324
service of petition and notice.....	324
service, how made.....	324
duty of general guardian, court when to appoint, etc.....	324
appearance of parties; service of papers.....	324
answer to petition.....	324
verification of petition and answer.....	324
trial of issue and decision thereon.....	325
other provisions applicable.....	325
entry of judgment; commissioners of appraisal, etc.....	325
duty of commissioners.....	325
report of commissioners.....	325
compensation of owners.....	325
confirmation of report.....	326
rehearing before commissioners.....	326
final order; deposit of money deemed payment.....	326
offer to purchase by plaintiff; notice of acceptance; cost and allowances.....	326
compensation awarded to be docketed as a judgment; delivery of possession; issue of writ of assistance.....	327
abandonment of proceedings by plaintiff.....	327
appeal from final order; stay of proceedings.....	327
appeal from judgment in favor of defendant.....	327
new appraisal.....	327
adverse and conflicting claimants to money.....	328
power of court to prevent disturbance of possession.....	328
entry upon the use of property after answer has been interposed.....	328
notice of pendency of proceedings; effect thereof; duty of county clerk.....	328
power of court to make all necessary orders, etc.....	329
repealing clause.....	329
<b>Conditional sale of rolling stock.</b>	
when invalid.....	446
when act not to apply.....	446
instruments, where to be filed.....	446, 447
<b>Conductors.</b>	
to wear uniform.....	488
may be appointed special policeman.....	478, 479
must wear badge.....	345, 399
<b>Connecting railroads.</b>	
liability for freight.....	368
rights as to transportation of freight and passengers.....	362
<b>Consolidation.</b>	
when companies may consolidate.....	364, 365
with Pennsylvania companies.....	367
general provisions for.....	365 <i>et seq.</i>
general railroad act made applicable to.....	367
to apply to street railroads.....	366, 367
allowed consolidated company.....	367
on New York Central Railroad.....	366
succeed to rights, franchises, etc., of roads consolidated.....	366
rights of creditors, and liens not to be impaired.....	366
stock held by municipal corporations, how represented in consolidation with Pennsylvania companies.....	367
all and competing lines may not.....	367
statement of consolidation to be filed in Secretary of State's office.....	366
closure.....	390



<b>Construction of road.</b>	PAGE
provisions as to commencement and completion of.....	351, 366
of surface steam.....	348, 366
of surface street.....	413
<b>Copies of Railroad Commission official documents.</b>	
when evidence.....	357
fees for.....	359
<b>Corporate existence.</b>	
how extended.....	348, 351, 350, 412
when to cease.....	436 et seq.
provisions for winding up affairs of corporation when annulled by act of Legislature.....	436 et seq.
<b>Corporations.</b>	
railroad, how organized. See Articles of Association.	
how reorganized when road sold under foreclosure.....	387 et seq.
may apply for change of name.....	433
<b>County railroad act.</b>	
See Rapid Transit Act.	
<b>Contagious and infectious diseases.</b>	
to prevent spread of.....	430
power of Governor in relation to, as to animals.....	439
<b>Couplers.</b>	
kind to be used on freight cars.....	473, 474
old link and pin coupler not to be used on passenger and mail cars.....	474
<b>Courts.</b>	
jurisdiction of misdemeanors committed on railroads.....	426
<b>Creditors.</b>	
notice to, to present claims.....	437
claims, when debarred.....	439
distribution of assets to.....	438
<b>Criminal Code.</b>	
provisions applicable to railroad corporations, officers, employees and to crimes on railroads.....	426 et seq.
<b>Criminal offenses.</b>	
indictments for crimes committed on cars, where may be found.....	426
<b>Crossings.</b>	
trains to stop at grade crossings of other railroads.....	473
crossing, intersecting, etc., other railroads.....	343
crossings and intersections, how additional land taken for.....	341
<b>Day's labor.</b>	
ten hours to constitute a day's labor on street or elevated roads in cities of over 100,000 inhabitants.....	464
<b>Debts.</b>	
stockholders' liability.....	336, 449
See Employees.	
<b>Directors.</b>	
number of.....	334
when may consist of seven stockholders.....	334
to be chosen annually.....	334
manner of election to be prescribed by by-laws.....	334
stockholders entitled to one vote for each share of stock held.....	334
vacancies, how to be filled.....	334
no person eligible unless a stockholder in his own right.....	334
books and papers of company to be exhibited at every election if required by majority of stockholders.....	334
may change route of road.....	340
may change route of road across canal.....	378
misconduct of, defined and forbidden, a misdemeanor.....	494
fraud in keeping accounts, how punished.....	496
publishing false report of condition of corporation a misdemeanor.....	496
present at meeting, when presumed to have assented to proceedings.....	495
absent from meeting, when presumed to have assented.....	495
failure to disclose notice of application for injunction, a misdemeanor.....	496
presumed to have knowledge of affairs of corporation.....	495
defined.....	496
election of, time for, may be changed.....	445
election of, when by-laws neglect to prescribe time for.....	445
election of, postponement of.....	444
prohibited from selling, or agreeing to sell, stock unless owner of.....	443
inspectors of election for, to be sworn.....	443
of union depots, may regulate use of.....	439
may be chosen after articles of association filed.....	423
unlawful acts of, stockholders, how protected against.....	443
of lessee company may act as of leased roads.....	439
of roads in foreign countries.....	430
<b>Disorderly conduct.</b>	
on public conveyances.....	86

<b>Dissolution.</b>	PAGE.
legislative power to dissolve corporation .....	348
provisions as to winding up affairs of dissolved corporations .....	436 <i>et seq.</i>
papers to be served on attorney-general for .....	435
of street railroad companies .....	417
<b>Dynamite.</b> See Explosives.	
<b>Electric railroads.</b>	
not street surface .....	428
<b>Elevated railroads.</b>	
prevention of accidents on .....	483
hours of labor upon, limited .....	484
weekly payment of wages on .....	485
	See Rapid Transit Act.
<b>Elevated tramway corporations.</b>	
act authorizing formation of .....	426 <i>et seq.</i>
<b>Emigrants.</b>	
selling passage ticket to, at higher rate than one and a quarter cents a mile .....	490
taking payment from, for ticket under false representations, a misdemeanor .....	490
soliciting emigrant passenger to exchange ticket, a misdemeanor .....	490
other offenses against .....	490
<b>Employees.</b>	
railroad company liable for wages of .....	337
notice of indebtedness, what to state .....	337
how verified and served .....	337
lien upon rolling stock, etc., for labor .....	447
notice of lien, when and where to be filed .....	448
lien to continue one year .....	448
how enforced .....	448
how discharged .....	448
personal liability of stockholders for employees' wages .....	449
provisions of lien to extend to railroad bridges and trestle work .....	449
engineer must be able to read .....	492
employment of engineer who can not read .....	492
negligence of person in charge of steam engine .....	492
failure to ring bell or blow whistle, a misdemeanor .....	493
intoxication of .....	493
placing passenger car in front of merchandise or freight car, a misdemeanor .....	493
willful violation or omission of duty, a misdemeanor .....	493
regulations as to age and employment of .....	479, 492
appointment of, as police .....	479
when acting as police to wear shield .....	479
to wear uniform .....	488
inducing not to wear a uniform, a misdemeanor .....	488
minor or other person forbidden to ride upon engine, freight or baggage car .....	489
to wear badges; can exercise no authority without same .....	345, 399
bursting of boiler through negligence or willfulness of .....	492
compelling to agree not to join labor associations, a misdemeanor .....	488
wages payable only in cash .....	449
wages payable weekly .....	485
<b>Engineers.</b> See Employees.	
<b>Evidence of incorporation.</b>	
what shall constitute .....	333, 428
in cases of consolidated companies, what to be .....	366
<b>Excavating, tunneling and bridging.</b>	
general provisions in regard to .....	423 <i>et seq.</i>
<b>Existing corporations at time of passage of general railroad act, provisions as to .....</b>	349
<b>Explosives.</b>	
attempting to ship by rail or otherwise without revealing true nature of, a felony .....	489
placing near building or car, when a felony .....	489
<b>Fare.</b>	
not to exceed three cents per mile .....	344
may be greater for one mile when road does not exceed fifteen miles in length .....	379
rate of, may be reduced by Legislature .....	346, 415
passenger refusing to pay, may be ejected .....	346
on street railroads .....	413, 415, 420
on narrow-gauge roads .....	378, 379
of rate of, as to emigrants .....	480
mountain railroads .....	377
of two gauges .....	379
fare may be exacted, when no ticket purchased .....	379
able railroads .....	376
New York Central Railroad .....	366
consolidated companies .....	367
roads organized under Rapid Transit Act .....	393
roads to erect and maintain same .....	348, 373
of land, when to build .....	374
to maintain same .....	384

	PAGE.
<b>Foreclosure.</b>	
mortgagees may purchase railroad on.....	385
by consolidated railroads lying partly in this State.....	386
duties and liabilities of corporations of other States.....	389
reorganization of new corporations under.....	387 et seq.
articles of association under.....	387, 388
when officers of road foreclosed may issue certificates of stock.....	391
right of stockholders to redeem.....	385, 388
increase of stock.....	388, 389
as to non-extension of reorganized roads.....	390
<b>Forgery.</b>	
forging passage ticket.....	486
sale of forged scrip by officer, agent or employee of company.....	486
"forge" or "forging" defined.....	494
<b>Forfeiture.</b>	
failure to construct surface steam roads within a certain time.....	343, 351, 360
for non-user.....	351
when consents for street roads shall cease.....	410, 416
of street roads.....	410, 411, 412, 416
<b>Foreign countries and other States.</b>	
railroads in.....	426
articles of association.....	426, 428
certificate to be recorded.....	429
board of directors.....	429
corporate powers.....	429
when company may proceed to organize.....	431
when to open subscription books.....	431
payment of subscriptions to stock.....	431
principal office.....	431
meeting of stockholders.....	431
increase or reduction of capital stock.....	432
subject to taxation.....	432
stock personal estate.....	432
directors may amend articles.....	432
may hold real estate in.....	432
consolidating with Pennsylvania companies.....	367
part of line in adjoining State.....	363
cable roads incorporated in this State may operate roads in.....	376
<b>Foreign corporations.</b>	
subject to Penal Code.....	486
organized in another State may hold and convey real estate in this State.....	433
See Foreign Countries.	
<b>Forest land.</b>	
regulations as to roads running through same.....	471, 473
<b>Fraud.</b>	
in sale of tickets.....	490, 491, 492
sale of forged or fraudulent scrip by officers or employees, how punished.....	493
fraudulent issue of scrip by officers or employee.....	494
in procuring organization of corporation, or increase of capital.....	494
in keeping accounts.....	495
in issuing bills of lading.....	497
in falsely indicating person as corporate officer.....	498
in subscriptions to stock of corporations.....	491
<b>Freight regulations.</b>	
where roads cross or intersect each other.....	343
as to connecting or intersecting railroads.....	343, 366
Legislature may alter or reduce rates.....	346
unlawfully riding on freight train, how punished.....	499
issuing fictitious bills of lading, how punished.....	497
duplicate receipts must be marked as such.....	497
hypothecating goods covered by bill of lading, how punished.....	497
competing lines to have equal facilities of accommodation from other railroads.....	362
unclaimed freight, how disposed of.....	386
unclaimed perishable freight, how disposed of.....	386
unclaimed baggage, how disposed of.....	386
proceeds of sale of unclaimed freight, disposition of.....	386
proceeds of sale of unclaimed baggage, disposition of.....	386
transfer of freight to steamboats when railroad terminates at Albany or Troy.....	371
freight transferred from steamboats to railroad at Albany or Troy.....	371
<b>Game laws.</b>	
provisions of, applicable to railroad companies.....	70
<b>General railroad act.</b> .....	7
<b>Gun powder.</b> See Explosives.	
<b>Heating.</b> See Car Heating.	
<b>Highways and streets.</b>	
laying out same across railroad tracks.....	8
railroad companies to cause same to be taken at most convenient place for travel.....	10
penalty where railroad neglects or refuses to do necessary work.....	11
right to construct railroad on or across, for business purposes.....	422, 423
right to tunnel under.....	8

<b>Highways and streets—(Continued).</b>	PAGE.
flagman at crossing.....	473
powers of commissioners of highways.....	343, 440, 441
railroads may carry over or under.....	341
railroads may go across or along.....	343
railroads occupying or crossing plankroad or turnpike to pay damages therefor.....	363
sign boards at crossings.....	347
ringing bell or blowing whistle at crossings.....	493
speed of trains through cities and villages in certain cases.....	473
<b>Hours of labor.</b>	
regulated upon street surface and elevated roads in cities.....	484
<b>Incorporation.</b> See Articles of Association.	
<b>Increase of stock.</b> See Capital Stock.	
<b>Indian lands.</b>	
authorizing construction of railroads upon.....	342, 361
<b>Indictments for crimes on railroads.</b>	
where may be found.....	486
<b>Infectious and contagious diseases.</b>	
of animals.....	480
to prevent spread of.....	480
<b>Injuring railroad property.</b>	
how punished.....	490
<b>INTERSTATE COMMERCE ACT.</b>	498
<b>Intoxication.</b> See Employees.	
<b>Laborers.</b> See Employees.	
<b>Labor organizations.</b>	
compelling employee to agree not to join, a misdemeanor.....	488
<b>Lease.</b>	
how authorized.....	382
street railroad leasing act.....	419
lessee may take surrender or transfer of capital stock of leased road and issue in exchange its own.....	382, 383
under ten miles in length, assent of stockholders at a regular meeting not necessary, in certain cases.....	383
lessee to maintain fences and cattle-guards.....	384
lessee to report to State Board of Railroad Commissioners.....	386, 384
conditional sale, loan or leasing of rolling stock.....	446, 447
<b>Light.</b>	
altering, how punished.....	491
oil to be used in cars.....	476
<b>Line.</b>	
common to two companies, how constructed.....	363, 364, 374
<b>Limitation of time in which to construct road.</b>	
surface steam.....	348, 351, 380
surface street.....	410, 411, 412, 416
<b>Low bridges.</b>	
warning signals at.....	473
<b>Locomotives.</b>	
furnished with cogs working into cogs as motive power.....	377
<b>Mails.</b>	
regulation for carrying.....	346
contracts for U. S. mails.....	368
provisions as to carrying same under rapid transit act.....	400
<b>Management of the road.</b>	
injuries to railroad property, how punished.....	490
taking excessive fare, how punished.....	478
extra fare may be exacted when no ticket purchased.....	379
companies may employ police force.....	478
police to take oath of office.....	478
employees, qualifications of.....	482, 492, 493
care of animals.....	480, 496
platforms to cars.....	493
drinking water to be supplied.....	384
ing obstructions on track.....	489, 490
ductors and brakemen, how authorized to act as special police.....	479
er of conductors and brakemen to make arrests.....	478
ada thistles, daisies, etc., to be cut down.....	470
ping upon or off cars, prohibited.....	482, 489
oyees to wear uniform and badges.....	346, 349, 488
ntaining fences.....	348, 373, 374, 384
es of employees payable only in cash.....	449
es of employees, on street and elevated roads, payable weekly.....	465
etment for crime on railroad.....	486
dren, prevention of accidents to.....	482
ing passenger cars, provisions as to.....	476
ches to be used.....	472

<b>Management of the road — (Continued).</b>		PAGE
warning signals at low bridges .....		67
when flagmen to be stationed at highway crossings .....		63
automatic couplers on freight cars after July 1, 1896 .....		63
automatic couplers on freight cars after November 1, 1892 .....	474, 475	67
trains to come to full stop where railroads cross at grade .....		67
automatic brakes to be attached to passenger cars .....		64
reckless injury to baggage, how punished .....		64
tools to be kept in car .....		64
getting off or on freight or wood cars or engines in motion, or riding on same without permission, how punished .....	482, 489	64
obstructing street cars .....	483, 489, 490	64
disorderly conduct on public conveyances .....		486
stealing and forging railroad tickets .....		490
weight of rails on grades, etc. ....	342, 378	62
as to sleeping cars .....		62
intemperate persons not to be employed .....		62
locomotives running through forest lands to be provided with apparatus to prevent escape of fire .....		67
companies to provide men to extinguish fires .....		67
person dying with contagious disease, regulation as to transportation of body .....	486	67
operation of certain roads may cease in winter months .....	475	67
transportation of venison or deer .....	476	67
placing passenger cars in front of freight or certain other cars a misdemeanor .....	476	67
railroads may run thirty miles an hour through cities and villages in certain cases .....	473	67
<b>Maps and profiles.</b>		
of proposed route to be filed .....	339, 345	
of constructed road to be filed .....	348, 349	
of altered road .....	340, 378	
<b>Manufacturing establishments.</b>		
may lay down track to connect manufactory with existing railroads .....	422, 423, 440	
<b>Milk cans.</b>		
rights of railroad superintendents in relation to collection thereof .....	480	
<b>Minors.</b>		
jumping upon cars, etc., by, prohibited .....	483	
prevention of accidents to .....	481	
<b>Mortgage.</b>		
railroads may .....	344	
	See Foreclosure.	
<b>Motive power.</b>		
on street railroads .....	375, 413, 420, 431	
<b>Mountain railroads.</b>		
rate of fare upon .....	376, 377	
motive power to be used upon .....	377	
limitation of act in relation to .....	377	
<b>Municipal aid.</b>		
to railroads .....	461-470	
<b>Name of corporation.</b>		
corporation may apply for change of .....	453	
proceedings necessary to effect change of .....	453	
<b>Narrow-gauge roads.</b>		
how incorporated .....	379	
fare .....	378, 379	
heating of cars on .....	474	
<b>Nitro-glycerine.</b> See Explosives.		
<b>Notice of time of starting trains.</b>		
how to be given .....	348	
<b>Notice of cessation of operations during winter months.</b>		
provisions as to publication and posting of .....	475	
<b>Obstructions on railroad track</b> .....		
	483, 489, 490	
<b>Officers of company.</b>		
how appointed .....	334, 385	
wrongful increase of stock, a misdemeanor .....	335	
publishing false reports by, a misdemeanor .....	485	
fraudulent issue of stock by, punishable by imprisonment .....	494	
fraud in procuring organization of corporation, or increase of capital by, punishable by imprisonment .....	494	
publishing false notice of meeting to increase stock, how punished .....	335	
placing passenger car in front of baggage or freight car, a misdemeanor .....	483	
willful violation or omission of duty, a misdemeanor .....	493	
selling forged or fraudulent scrip, how punished .....	494	
fraudulent issue of stock or scrip, how punished .....	494	
when may issue certificates of stock after foreclosure .....	391	
falsely indicating person as corporate officer .....	498	
fraud in keeping accounts .....	498	
prohibited from selling or agreeing to sell stock "short" .....	448	
	See Directors and Employees.	

<b>Official documents, Railroad Commission.</b>	PAGE.
when evidence.....	357
fees for.....	358
<b>Oil.</b>	
kind to be used in cars.....	476
<b>Organization.</b> See Articles of Association.	
<b>Passenger trains.</b>	
how made up.....	493
See Passenger Regulations.	
<b>Passenger Regulations.</b>	
trains, how made up.....	493
connecting and intersecting railroads to furnish facilities for transportation of..	362
duty of, as to remaining inside of cars.....	348
accommodations for transportation of.....	346
for refusal to pay fare or obey reasonable regulations, may be ejected by force, 346,	488
refusal to carry, a misdemeanor.....	496
no exclusion because of race or color.....	497
steamboats on Hudson river to furnish tickets and baggage checks for transportation on railroads.....	370
railroads, when to furnish tickets and baggage checks for transportation by Hudson river steamboats.....	371
drinking water to be kept in cars.....	384
rate of fare.....	344, 379
rate of fare where road does not exceed fifteen miles in length.....	379
rate of fare on narrow-gauge roads.....	378, 379
rate of fare on mountain railroads.....	377
rate of fare on cable railroads.....	377
rate of fare on New York Central Railroad.....	366
rate of fare of consolidated companies.....	367
rate of fare on roads organized under Rapid Transit Act.....	393
checks for baggage.....	347-370
time tables.....	346
<b>Penal Code.</b>	
provisions applicable to railroad corporations, officers, employees, etc.....	488-497
<b>Penalties.</b>	
how sued for.....	347, 373
See Civil Code.	
<b>Plankroads.</b>	
damages for crossing.....	363
<b>Platforms.</b> See Management of Road.	
<b>Police.</b> See Employees, also Management of Road.	
<b>Powers of corporation.</b>	
general powers under title 3, chap. 18, R. S.....	350
may enter upon lands for the purpose of survey.....	342
may hold voluntary grants of real estate.....	342
may purchase, hold and use real estate—Indian lands.....	342, 361
as to construction of road.....	342
may cut standing trees, etc.....	342
right to cross, intersect, etc., streets, canals and railroads.....	343
to convey passengers and property.....	344
to erect buildings and stations.....	344
to borrow money, issue bonds and mortgage property to complete or operate road, 344	
to regulate time and manner of transporting freight and passengers.....	344
may hold stock in companies created for the erection of union depots.....	426
may contract with each other for the use of their respective roads.....	382
capital stock of leased road may be exchanged for stock of the lessee.....	382, 383
may own boats and operate ferries in New York harbor.....	425
excavating, tunneling and bridging.....	423 <i>et seq.</i>
<b>Private railroads.</b>	
may cross highways, etc.....	422, 423, 440
<b>Preferences forbidden.</b> .....	343, 346, 362, 372
<b>Process.</b>	
on whom same may be served.....	376
service of same on agents and servants.....	376
<b>Protection of life and property.</b>	
in relation to.....	472
See Management of Road.	
<b>    and Commissioners.</b> See Board of.	
<b>    Transit and Elevated Railroad Act.</b>	
provisions regulating commissioners for, formation, powers, location, construction, operation and management of.....	391-407
provisions not applicable to New York, Kings or Westchester.....	407
provisions not to affect Manhattan island and Kings county.....	407
on certain consents.....	414

Real estate.	PAGE.
condemnation of.....	323 et seq.
how title to may be acquired.....	337, 371
special estates, how acquired.....	335
when the land required forms part of street.....	441
may purchase and hold real estate in other States to secure fuel.....	445
corporations organized under laws of other States may hold and convey same.....	433
transfer of property not to affect proceedings.....	373
powers of court to carry proceedings into effect.....	373
when title is defective, company may perfect.....	338, 339
additional land, how acquired.....	336
water rights, how acquired.....	338
additional land for crossings and intersections, how taken.....	341
State land, how acquired by company.....	341
Indian lands.....	341, 361
corporations may hold real estate.....	342
title, how acquired when trustees, guardian or committee are not authorized to sell.....	341
salt lands, how acquired.....	330
occupants of land proposed to be taken for road may object.....	339
railroad company may institute proceedings to obtain same when ten per cent of \$10,000 stock per mile subscribed is paid in.....	353
where track crosses canal.....	361, 375
crossing turnpike or plankroad, damages for.....	353
excavating, tunneling and bridging.....	423 et seq.
railroads may hold in foreign countries.....	430, 431, 445
proceedings on application to sell, lease or mortgage.....	329, 330
See Condemnation of Real Property.	
<b>Receivers.</b>	
act in regard to appointment of; compensation to; duties; removal of; service of papers on Attorney-General; venue of actions and change thereof; preference on court calendar of actions by or against; transfer of property to.....	434 et seq.
appointment of, to wind up affairs of corporations annulled and dissolved by legislative enactment.....	436
powers and duties of, in such cases.....	437 et seq.
transfer of securities and property to.....	436
<b>Reorganization. See Foreclosure.</b>	
<b>Repealing clause.</b>	
general act as to.....	340
<b>Road crossings.</b>	
signs to be erected at.....	347
regulation as to ringing bell or blowing whistle at.....	438
<b>Route of road.</b>	
map of, to be filed before construction.....	339
occupants of land to receive notice of route designated.....	339
objections to route, how made.....	339
petition to alter proposed route, what to contain.....	339
Supreme Court to appoint commissioners to determine route.....	339
determination of commissioners to be filed.....	339
appeal from decision of commissioners to be made to Supreme Court.....	339
change of, how made.....	340, 373
line common to two companies, how constructed.....	363, 364, 374
part of road may be constructed in another State.....	363
damages for crossing turnpike or plankroad.....	363
highways intersected, provisions for changing course of highway.....	341
commissioners of highways may give consent for construction across highway by association or individual.....	440, 422, 453
may run over Indian lands.....	342, 361
construction of highways and streets across, regulated.....	440
crossing canal, directors may change.....	375
crossing, intersecting, etc., other railroads.....	343
excavating tunneling and bridging.....	423 et seq.
abandonment of portion of, by street railroads.....	419
on salt lands.....	360
non-extension of reorganized roads.....	369
<b>Salt lands.</b>	
how acquired.....	330
<b>Sign boards.</b>	
at crossings, how constructed.....	347
<b>Signal.</b>	
altering, how punished.....	11
<b>Sleeping cars.</b>	
patentee may place car on road with assent of corporation.....	5
fare on.....	5
railroad company not to be interested in money paid for berths.....	5
liability for injuries.....	5
other cars to be provided by railroad company.....	5
<b>State Board of Mediation and Arbitration.</b>	
act applicable to all corporations.....	9

<b>State lands.</b>	PAGE.
how acquired by company.....	341, 360
<b>Stockholders.</b>	
liabilities of.....	336, 337, 449
rights of, as between themselves.....	336, 337, 449
consent of stockholders requisite to, change of terminus in certain cases.....	377
assent of same at a meeting not necessary to lease of railroad not exceeding ten miles in length.....	383
under foreclosure may assent to plans of readjustment.....	389
payments on mortgages in process of foreclosure may be made by.....	385
right of, to redeem on foreclosure.....	385, 389
proxies, restrictions in regard to.....	442
prohibited from selling vote or proxy.....	442
oath, form of, when voting on stock or bonds.....	442
false swearing to constitute perjury.....	442
voting of, regulated.....	442
how protected against wrongful acts of directors.....	443 et seq.
consent requisite to increase of stock.....	385
consent of, requisite to issue of bonds.....	344
<b>Steamboats on Hudson river, See Passenger Regulations and Freight Regulations.</b>	
<b>Steam boilers.</b>	
mismanagement of.....	492
liabilities of persons in charge of.....	492
<b>Street railroads.</b>	
leasing.....	414, 419
part of route may be abandoned.....	419
may not consolidate.....	367
use of motive power.....	375, 413, 420, 421
form of annual report.....	355, 421
report, where to be filed.....	355, 421
authorizing use of track of, by other companies for compensation.....	413, 420
act relating to corporate rights and powers of certain of.....	417
act to provide for the construction, extension, maintenance and operation of, 409 et seq.	
franchise for, must be sold at public auction.....	415
sale of franchise, how conducted.....	415
act not to apply in places of less than 90,000 inhabitants or to elevated roads in counties of less than a million, except as to consents of local authorities.....	415
fare, right to reduce, reserved by Legislature.....	415
rate of fare.....	413, 415, 420
consent of property owners not affected or impaired by dissolution of company.....	417
hours of labor upon, limited.....	484
obstructing, hindering or delaying cars.....	483, 489, 490
no parade or procession to obstruct cars.....	483
authorizing use of sand upon tracks in cities of 500,000 population or more.....	421
abandonment of route, when and how permitted.....	419
no street road to be built under Rapid Transit Act.....	414
fare on cable roads.....	376, 420
extensions.....	409, 415
wages of employees payable only in cash.....	449
wages payable weekly.....	485
consents of local authorities confirmed in certain cases.....	418
consent of State property, how obtained.....	410
<b>Switches.</b>	
kind to be used.....	472
<b>Taxation of railroad corporations.</b>	
as to general subject, see chap. 13, part 1 of R. S.	
see, also, General Laws, this report.....	450-450
<b>Taxes.</b>	
recovery of, from delinquent corporations, etc.....	458
amount to be paid for privilege of organizing corporation.....	457
<b>Terminus.</b>	
change of.....	340, 377
<b>Tickets.</b>	
sale of, by authorized agent, how restricted.....	491
unauthorized persons forbidden to sell.....	491
found in the sale of.....	481, 490
bringing to, or selling or attempting to sell passage tickets, when a violation law, how punished.....	491
es kept for unlawful sale of tickets declared disorderly houses.....	492
on-masters and conductors allowed to sell same.....	492
migrants, how regulated.....	490
ing of.....	490
connecting railroads.....	362
roads terminating in Albany or Troy to furnish to steamboats.....	371
boats may furnish to railroads terminating at Troy or Albany.....	370



	PAGE.
<b>Time.</b>	
for commencing and finishing steam road.....	348, 350
for organization.....	351
surface roads.....	410, 411, 412, 416
extension of corporate existence, how effected.....	376
<b>Tools.</b>	
to be kept in car.....	474
<b>Town.</b>	
bonding acts.....	461-470
<b>Tramp.</b>	
provisions in regard to unlawful acts of.....	481
<b>Tramway corporations.</b>	
act authorizing formation of elevated.....	426 et seq.
<b>Trespass.</b>	
how punished.....	348, 481, 482, 489
<b>Tunneling, excavating and bridging.</b>	
general provisions in regard to.....	423 et seq.
<b>Uniforms.</b>	
inducing employee not to wear, a misdemeanor.....	488
<b>Union depots.</b>	
how companies for erection of same may be organized.....	426
regulation of.....	426
<b>Wages.</b>	
to be paid in cash only.....	449
payable weekly.....	458
<b>Water.</b>	
drinking, to be kept in cars.....	384
<b>Weight.</b>	
of iron rails on grades.....	342
of rails on narrow-gauge roads.....	373
<b>Whistle.</b>	
to be blown or bell rung at crossings.....	493
neglect a misdemeanor.....	493

# INDEX.

A.	PAGE.	Applications for increase of capital stock:	PAGE.
<b>Accidents:</b>		<b>Albany Railway Company</b> .....	127
Lake Shore and Michigan Southern (breaking of train at Hamburg)...	162	<b>Allegheny and Kinzua Railroad Company</b> .....	132
Lehigh Valley (explosion of locomotive at Buffalo).....	167	<b>Binghamton Central Railroad Company</b> .....	130
New York and Canada (operated by Delaware and Hudson Canal Company, accident at Bulwagga, on line of).....	178	<b>Brooklyn City Railroad Company</b> .....	128
Accident caused by sinking of track on.....	171	<b>Croton Valley Railroad Company</b> .....	131
Collision near Howard's switch.....	179	<b>Geneva and Van Etenville Railway Company</b> .....	136
New York Central and Hudson river (State's crossing).....	172	<b>Grand View Beach Railroad Company</b> .....	131
Head-on collision one mile west of Fisher's station on Auburn branch New York, Lake Erie and Western (rear collision at Owego).....	180	<b>Mahopac Falls Railroad Company</b> .....	139
Third Avenue Cable Railroad, New York city (One-hundred and Twenty-fifth street and Fourth avenue, January 25, 1890).....	153	<b>Metropolitan Crosstown Railroad Company</b> .....	138
Western New York and Pennsylvania (collision near Cuba).....	160	<b>Saratoga Electric Railway Company</b> .....	135
Collision near Portage.....	164	<b>Troy and Lansingburgh Railroad Company</b> .....	134
West Shore (side collision with train of Western New York and Pennsylvania road).....	174	<b>Applications to suspend operation of road:</b>	
<b>Accident Inquiries:</b>		<b>Catskill Mountain Railway Company</b> .....	148
Adirondack.....	182	<b>Kaaterskill Railroad Company</b> .....	147
Buffalo, Rochester and Pittsburgh.....	182	<b>Oneida Street Railroad Company</b> .....	150
Delaware and Hudson Canal Company.....	182	<b>Riker Avenue and Sandford's Point Railroad Company</b> .....	149
Delaware, Lackawanna and Western, Pithburg.....	184	<b>Rochester and Glen Haven Railroad Company</b> .....	147
Long Island.....	185	<b>Rochester and Lake Ontario Railroad Company</b> .....	142
New York Central and Hudson River, New York, Lake Erie and Western.....	188	<b>Seneca Falls and Cayuga Lake Railroad Company</b> .....	146, 150
Rome, Watertown and Ogdensburg.....	191	<b>Applications for issue of bonds</b> .....	140
West Shore.....	192	<b>Applications by various railroad companies:</b>	
Act creating Board.....	352-357	<b>Central New England and Western Railroad Company</b> for extension of time to comply with the provisions of chapter 189, Laws of 1888, for heating passenger cars other than by a stove or furnace kept inside the cars or suspended therefrom... 151	
Addison and Pennsylvania Railroad, inspection of.....	198, 263	<b>Lake Shore and Michigan Southern Railroad Company</b> for approval of plans by Board of dining-car ranges 151	
Adirondack railroad, inquiry as to cause of accident on, at Church street, Saratoga.....	182	<b>New York, Lake Erie and Western Railroad Company</b> for the approval of the Board of interlocking switch and signal apparatus in operation at: <i>First</i> . At a point east of Kennedy, Waterboro, at a connection with the Buffalo and Southwestern railroad, operated by the New York, Lake Erie and Western Railroad Company; <i>Second</i> . At Falconer, crossing the Dunkirk, Allegheny Valley and Pittsburgh railroad; <i>Third</i> . At Jamestown, crossing the Chautauqua Lake railroad.....	152
Williams, Alonzo C., killed on.....	182		
<b>Alphabetical list of companies formed under the laws of this State</b> .....	287-297		
<b>Applications for change of motive power:</b>			
<b>Amsterdam Street Railroad Company</b> .....	116		
<b>Broadway and Seventh Avenue Railroad Company</b> .....	122		
<b>Canal Street Railroad Company</b> .....	110		
<b>Canal Street Railroad Company</b> on behalf of itself and of the Buffalo and Side Street Railroad Company, Long Island and Brooklyn Railroad Company .....	117		
<b>Fourth Avenue Railroad Company</b> .....	120		
<b>Rochester Railway Company</b> .....	107		
<b>Third Avenue Railroad Company</b> .....	121		
<b>Troy and Lansingburgh Railroad Company</b> .....	115		
<b>Utica and Mohawk Railroad Company</b> .....	109		
		<b>B.</b>	
		<b>Board of Railroad Commissioners:</b>	
		<b>Report of</b> .....	VII-XXI
		<b>General situation</b> .....	VII
		<b>Summary of business for the year</b> .....	X
		<b>References and complaints</b> .....	XI
		<b>Accidents</b> .....	XI

	PAGE.
<b>Board of Railroad Commissioners — (Continued).</b>	
Change of motive power for, street railroads.....	xv
Applications for increase of capital stock.....	xvi
Physical condition of railroads.....	xvii
Legislation.....	xviii
Report on the following entitled bills referred by the Governor, viz.:	
An act to regulate rates of fare for passenger traffic on the railroad of the Ticonderoga Railroad Company.....	3
An act to authorize the Seneca Electric Railway to operate any portion of its railroad by electricity, instead of locomotive steam power.....	4
An act granting additional powers to the Rome, Watertown and Ogdensburg Railroad Company, a corporation organized under the laws of this State.....	5
An act fixing the rate of fare to be charged by the Kinderhook and Hudson River Railroad Company.....	6
An act for the relief of the Brooklyn City Railroad Company, as lessee of the franchises and property of the Bushwick Railroad Company.....	7
An act to amend chapter 395, Laws of 1888, entitled "An act to provide for the relief of the city of Buffalo, and to change and regulate the crossing and occupation of the streets and avenues and public grounds in said city by railroads".....	8
An act to amend section 635 of the Penal Code.....	10
An act to amend chapter 140 of the Laws of 1880, entitled "An act to authorize the formation of railroad corporations and to regulate the same," and to amend chapter 62 of the Laws of 1883, entitled "An act to regulate the construction of roads and streets across railroad tracks".....	13
An act to amend section 4, chapter 262, Laws of 1884, entitled "An act to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages".....	14
An act relative to consents to street surface railroad companies.....	15
An act to amend chapter 407 of the Laws of 1888, entitled "An act relative to railways in the transverse roads of Central Park in the city of New York".....	15
An act for the relief of the People's Railroad Company of Syracuse.....	16
An act relative to percentages to be paid by street surface railroad companies.....	17
An act to amend section 56 of the Code of Criminal Procedure.....	18
An act further to extend the time within which the East Side and Mount Vernon Railway shall complete the several portions or sections of its railway.....	18
An act to amend section 426 of the Penal Code.....	19
An act to allow domestic electric-light and power corporations to build, maintain and operate by electricity as a motive power railroads other than street surface railroads not exceeding twenty miles in length.....	20

	PAGE.
<b>Board of Railroad Commissioners — (Continued).</b>	
An act supplemental to chapter 606, Laws of 1875, entitled "An act further to provide for the construction and operation of a railway or railways in the counties of this State," and providing for the correction and amendment of articles of association, etc.....	21
An act to authorize the department of public parks in the city of New York to grant to the New York Central and Hudson River Railroad Company a revocable license to occupy a strip of land on the westerly side of Bronx park in the 24th ward, for a passenger station.....	25
An act to repeal chapter 608, Laws of 1887, entitled "An act to extend the charter of the Delhi and Hudson River Railroad Company.....	25
An act to amend chapter 199, Laws of 1888, entitled "An act to amend chapter 516, Laws of 1887, entitled 'An act to regulate the heating of steam passenger cars, and to provide for the placing of guards and guard-posts on railroad bridges and trestles and approaches thereto'".....	26
An act in relation to railroads, constituting chapter 39 of the General Laws.....	27-49
Comments of Board on.....	27-49
Act creating.....	282-287
Expenses of.....	275
Minutes of.....	284-279
<b>Bath and Hammondsport Railroad,</b>	
Inspection of.....	196
<b>Barton, Wm. L., killed.....</b>	191
<b>Bonds, applications for issue of,</b>	
<b>Boston and Albany Railroad, inspection of.....</b>	199
<b>Bradford, Eldred and Cuba Railroad,</b>	
Inspection of.....	200, 203
<b>Bray, Thomas, killed.....</b>	196
<b>Brooklyn, Bath and West End Railroad, inspection of.....</b>	201
<b>Brooklyn and Brighton Beach railroad,</b>	
Inspection of.....	202
<b>Brierley, John, injured.....</b>	198
<b>Brierley, J. C., injured.....</b>	198
<b>Buffalo, Rochester and Pittsburgh railroad, inspection of.....</b>	202
Inquiry as to cause of accident on, one mile west of Colden.....	192
<b>Olcott, J. B., killed on.....</b>	197
<b>Burke, Mrs., killed.....</b>	198
<b>C.</b>	
<b>Capital stock, increase of, application for, by the following companies:</b>	
Albany.....	127
Allegany and Kinzua.....	130
Binghamton Central.....	130
Brooklyn City.....	129
Croton Valley.....	131
Geneva and Van Ettenville.....	131
Grand View Beach.....	131
Mahopac Falls.....	131
Metropolitan Crosstown.....	131
Saratoga Electric.....	131
Troy and Lansingburgh.....	131
<b>Capital stock, surrender of,</b>	
Coburn, W. H., killed.....	191
Coe, John E., killed.....	191
Olive Branch railroad, inspection of.....	191

	PAGE.
Condemnation act (chapter 95, Laws of 1890) .....	330
Consolini, Mary, injured .....	189
Consolidation of roads .....	282
Cook, Lee, injured .....	189
Crahan, Peter, injured .....	191
Companies, railroad, formed during the year .....	280
Companies formed, alphabetical list, under the laws of this State .....	287-297
Complaints of cities, towns, associations, individuals, etc.:	
Albion, Board of Trade of, in the matter of the complaint of, v. The New York Central and Hudson River Railroad Company .....	91
Armstrong, J. v. The Buffalo, Rochester and Pittsburg Railroad Company .....	86
Banks, Robert Lenox, v. The Delaware and Hudson Canal Company .....	91
Bath Junction, residents of, v. The Brooklyn, Bath and West End Railroad Company .....	58
Beekmantown and Chazy, in the matter of the complaint of residents of the towns of, v. The Delaware and Hudson Canal Company .....	83
Bills, W. J. and G. v. The West Shore Railroad Company .....	56
Brown, W. J., v. The Delaware and Hudson Canal Company .....	57
Burns, William Savage, in the matter of the complaint of, v. The Wagner Palace Car Company .....	57
Cazenovia, in the matter of the complaint of citizens of, v. The Syracuse, Ontario and New York Railway Company .....	75
Cook, Homer, highway commissioner, Pavilion, v. The Buffalo, Rochester and Pittsburg Railroad Company .....	59
Cross, T. E., in the matter of the complaint of, v. The Delaware and Hudson Canal Company .....	55
Cummings, Almon, highway commissioner, v. The New York, Lake Erie and Western Railroad Company .....	79
Dalton, residents of, v. The New York, Lake Erie and Western Railroad Company .....	100
Ellicottville, town board of, v. The Buffalo, Rochester and Pittsburg Railroad Company .....	84
Fitzgerald, Thomas, v. The New York, Lake Erie and Western Railroad Company .....	98
Fordham, H. & Sons, in the matter of the complaint of, v. The Long Island Railroad Company .....	65
Great Valley, residents of, v. New York, Lake Erie and Western Railroad Company .....	86
Goldsmith & Tuthill, in the matter of the complaint of, v. The Long Island Railroad Company .....	52
S. W., v. The New York, Lake Erie and Western Railroad Company .....	51
Ilton, Madison county, residents v. Hamilton station, Livingston county .....	85
Shorne, C. H., v. The New York, Lake Erie and Western Railroad Company .....	85
and Erie county, in the matter of petition of the residents of the town of, v. The Western New York Pennsylvania Railroad Company .....	89

	PAGE.
Complaints of cities, towns, associations, individuals, etc. — (Continued).	
Larmon, C. W., v. The Fitchburg Railroad Company .....	61
Look, George H., in the matter of the complaint of, v. The Kanona and Prattsburgh Railway Company .....	87
Members, G. O., v. The Rome, Watertown and Ogdensburgh Railroad Company .....	86
New York, Lake Erie and Western Railroad Company, employees of the, v. The Highway Commissioners of Orangetown, Rockland county, N. Y. ....	52
Northrup, G. C., v. The New York, Lake Erie and Western Railroad Company .....	76
Statement of Mr. Sprague .....	77
Norwich, residents of village of, v. The Delaware, Lackawanna and Western Railroad Company .....	50
Ontario, residents of the town of, v. The Rome, Watertown and Ogdensburgh Railroad Company .....	51
Packer, J. L., v. The Delaware, Lackawanna and Western Railroad Company .....	60
Painted Post, in the matter of the complaint of residents of, v. The New York, Lake Erie and Western Railroad Company .....	93a
Phillipstown, highway commissioners, town of, v. The New York Central and Hudson River Railroad Company .....	55
Rae, James M., in the manner of the complaint of, v. The New York, Lake Erie and Western Railroad Company .....	67
Conclusions .....	70
Recommendations .....	72
Inspector's report .....	73
Rice, E. de Roode Mrs., v. The New York Central and Hudson River Railroad Company .....	60
Rodenhurst, DeWitt C., et al., v. The Rome, Watertown and Ogdensburgh Railroad Company .....	76
Rochester, in the matter of the complaint of citizens of, v. The New York Central and Hudson River Railroad Company, and the Buffalo, Rochester and Pittsburg Railroad Company, in regard to grade crossings .....	79
Schuyler and Frankfort, in the matter of the complaint of residents of the towns of, v. The New York Central and Hudson River Railroad Company, as to a dangerous crossing on that road four miles east of Utica .....	103
Stebbins & Utter v. The New York, Lake Erie and Western Railroad Company .....	54
Stowell & Corbin v. The Western New York and Pennsylvania Railroad Company .....	90
Titus, Wells & Willets, v. The West Shore Railroad Company .....	50
Van Duzer, J. S., v. The Elmira, Cortland and Northern Railroad Company .....	97
Vroman & Wood, of Feura Bush, Albany county, in the matter of the complaint of, v. The West Shore Railroad .....	61
Westchester county, in the matter of complaint of residents of, v. The Suburban Rapid Transit Railroad Company .....	90

	PAGE.		PAGE.
<b>Complaints of cities, towns, associations, individuals, etc. — (Continued).</b>		<b>Commissioners, Board of Railroad — (Continued).</b>	
Westchester county, residents of, in the matter of the application for a recommendation of the Board for increased passenger service on the Harlem River Branch of the New York, New Haven and Hartford Railroad Company.....	98	Report on the bill entitled "An act to amend sec. 4, chap. 252, Laws of 1884, entitled 'An act to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages'....."	14
Wilbur, W. R. v. The Delaware, Lackawanna and Western Railroad Company.....	59	Report on the bill entitled "An act relative to consents to street surface railroad companies".....	15
Wilder, R. S. v. The Buffalo, Rochester and Pittsburg Railroad Company.....	101	Report on the bill entitled "An act to amend chapter 407 of the Laws of 1888, entitled 'An act relative to railroads in the transverse roads of Central Park in the city of New York'....."	14
<b>Commission, Interstate Commerce:</b>		Report on the bill entitled "An act for the relief of the People's Railroad Company of Syracuse".....	16
Act creating.....	498-511	Report on the bill entitled "An act relative to percentages to be paid by street surface railroad companies".....	17
<b>Commissioners, Board of Railroad:</b>		Report on the bill entitled "An act to amend section 56 of the Code of Criminal Procedure".....	18
Report of.....	VII-XXI	Report on the bill entitled "An act further to extend the time within which the East Side and Mount Vernon railway shall complete the several portions or sections of its railway".....	19
General situation.....	VII	Report on the bill entitled "An act to amend section 426 of the Penal Code".....	19
Summary of business for the year..	X	Report on the bill entitled "An act to allow domestic electric light and power corporations to build, maintain and operate by electricity as a motive power railroads other than street surface railroads not exceeding twenty miles in length".....	20
References and complaints.....	XI	Report on the bill entitled "An act supplemental to chapter 606, Laws of 1875, entitled 'An act further to provide for the construction and operation of a steam railway or railways in the counties of this State,' and providing for the correction and amendment of articles of association, etc.".....	21
Accidents.....	XI	Report on the bill entitled "An act to authorize the department of public parks in the city of New York to grant to the New York Central and Hudson River Railroad Company a revocable license to occupy a strip of land on the westerly side of Bronx park, in the Twenty-fourth ward, for a passenger station".....	25
Change of motive power for street railroads.....	XV	Report on the bill entitled "An act to repeal chapter 608, Laws of 1897, entitled 'An act to extend the charter of the Delhi and Hudson River Railroad Company'....."	25
Applications for increase of capital stock.....	XVI	Report on the bill entitled "An act to amend chapter 189, Laws of 1888, entitled 'An act to amend chapter 616, Laws of 1887, entitled 'An act to regulate the heating of steam passenger cars, and to provide for placing of guards and guard-rails on railroad bridges and trestles and approaches thereto'....."	
Physical condition of railroads.....	XVII	An act in relation to railroads, constituting chapter 39 of the General Laws.....	
Legislation.....	XVIII	Comments of Board on.....	
Consideration of the following bills referred by Governor, viz.:		Act creating.....	
Report on the bill entitled "An act to regulate rates of fare for passenger traffic on the railroad of the Ticonderoga Railroad Company".....	3	Expenses of.....	
Report on the bill entitled "An act to authorize the Seneca Electric Railway to operate any portion of its railroad by electricity instead of locomotive steam power".....	4	Minutes of.....	
Report on the bill entitled "An act granting additional powers to the Rome, Watertown and Ogdensburg Railroad Company, a corporation organized under the laws of this State,"	5		
Report on the bill entitled "An act fixing the rate of fare to be charged by the Kinderhook and Hudson River Railway Company".....	6		
Report on the bill entitled "An act for the relief of the Brooklyn City Railroad Company, as lessee of the franchises and property of the Bushwick Railroad Company".....	7		
Report on the bill entitled "An act to amend chapter 345, Laws of 1888, entitled 'An act to provide for the relief of the city of Buffalo, and to change and regulate the crossing and occupation of the streets and avenues and public grounds in said city by railroads'....."	8		
Report on the bill entitled "An act to amend section 635 of the Penal Code"	10		
Report on the bill entitled "An act to amend chapter 140 of the Laws of 1850, entitled 'An act to authorize the formation of railroad corporations and to regulate the same,' and to amend chapter 62 of the Laws of 1853, entitled 'An act to regulate the construction of roads and streets across railroad tracks'....."	11		
Report on the bill entitled "An act to amend chapter 549, Laws of 1888, entitled 'An act relating to the corporate rights and powers of street surface railroad companies'....."	12, 13		



## D.

PAGE.

Delaware and Hudson Canal Company's railroad, inquiries as to cause of accidents at Glens Falls, Chazy Junction, one near Oneonta, a rear collision at Howe's Cave, accidents at Colliers, Schenectady, Plattsburgh and Albany.....	182-184
Bears, William, injured.....	182
Floody, William, injured.....	184
Godette, Peter, injured.....	183
Green, Louis, killed.....	182
Hubbell, Harris, injured.....	182
Monahan, Dan, killed.....	182
Quackenbush, James, injured.....	183
Vaff, William, injured.....	183
Thomas, Father, injured.....	182
Inspection of.....	205
Dawson, Robert, injured.....	188
Delaware, Lackawanna and Western railroad, inquiry as to cause of accident on, at Alden.....	184
Martin, Lucien S., killed.....	184
Dunkirk, Allegheny Valley and Pittsburgh railroad, inspection of.....	212
Dye, John, injured.....	189

## E.

Enactment during year.....	285
Expenses of Board.....	279
Extension of corporate existence.....	284
Extension of routes.....	282

## F.

Fitchburg railroad, inquiry as to cause of accident on, at Rotterdam Junction and accident two miles north of Owego.....	184
Beaghan, Mrs. Thos., killed.....	185
Cleveland, Mrs. A. P., killed.....	185
Pillings, C., injured.....	184
Bohrback, O., injured.....	184
Shay, Mrs. Jas., killed.....	185
Van Duzen, Mrs. Harvey, killed.....	185
Whitmarsh, Mrs. Avery, killed.....	185
Fitzgerald, John J., injured.....	186
Fosdick, John D., injured.....	188

## G.

Gardner, George W., injured.....	188
Garrett, L., injured.....	188
Grace, Patrick T., injured.....	192
Gray, Oscar M., injured.....	192

## H.

Herkimer, Newport and Poland railroad, inspection of.....	213
Hill, J. A., killed.....	191
Hogan, Charles, injured.....	192

## I.

Inspections:	
Addison and Pennsylvania.....	198, 253
Bath and Hammondsport.....	199
Boston and Albany.....	199
Bradford, Eldred and Cuba.....	200, 253
Brooklyn, Bath and West End.....	201
Brooklyn and Brighton Beach.....	202
do, Rochester and Pittsburgh.....	202
do, Branch.....	204
Delaware and Hudson Canal Co.....	205
Dunkirk, Allegheny Valley and Pittsburgh.....	212
do, Herkimer, Newport and Poland.....	213
do, Staten Island.....	214
do, Dutchess and Connecticut.....	219, 253
do, New York.....	220

## Inspections—(Continued).

PAGE.

New York Central and Hudson River.....	221
New York, Lake Erie and Western.....	232
New York, New Haven and Hartford.....	240
New York and Sea Beach.....	241, 253
Pennsylvania, Poughkeepsie and Boston.....	242
Port Jervis, Monticello and New York.....	242
Prospect Park and Coney Island.....	243
Sea View Elevated.....	244
Silver Lake.....	244
Staten Island Rapid Transit.....	245, 253
Syracuse, Ontario and New York.....	246
Ulster and Delaware.....	247
Wallkill Valley.....	248
Western New York and Pennsylvania.....	249
Interstate commerce act.....	498-511
Issue of bonds, applications for.....	140

## J.

Jarvis, Charles W., injured.....	191
----------------------------------	-----

## K.

Kelner, James F., injured.....	189
Kimball, Jarvis, killed.....	188
Kline, Mrs., injured.....	192

## L.

L'Estrange, Wm., injured.....	192
Lake Shore and Michigan Southern Railroad, accident on.....	162
Laws passed during year.....	285
Laws, railroad.....	321-327
Leased roads during year.....	281
Length of steam roads in operation.....	194-197
Lehigh Valley Railroad, accident on.....	167
List of railroad companies formed under laws of State.....	287-297
Long Island Railroad, inspection of.....	214
Inquiry as to cause of accident by which Frank Markert was killed.....	185
Luzier, Dr. George, injured.....	189
Lynch, John, killed.....	187

## M.

Mansfield, W. C., injured.....	192
Manning, George F., injured.....	189
Markert, Frank, killed.....	185
Masters, Julius, injured.....	189
McCarthy, John, injured.....	192
Miller, Judson C., injured.....	189
Minutes of Board.....	264-279

## Motive power, applications for change of, by the following companies:

Amsterdam Street.....	116
Broadway and Seventh Avenue.....	122
Buffalo Street.....	110
Buffalo Street, on behalf of itself and of the Buffalo East Side Street.....	105
Coney Island and Brooklyn.....	117
Maple Avenue.....	120
Rochester.....	107
Third Avenue.....	121
Troy and Lansingburgh.....	115
Utica and Mohawk.....	109

## N.

Newburgh, Dutchess and Connecticut Railroad, inspection of.....	219, 253
New York and Canada Railroad, accidents on.....	171, 178, 179

	PAGE.
New York Central and Hudson River Railroad, accidents on.....	172, 180
Inquiry as to cause of derailment at Spuyten Duyvil junction; also as to injury of M. Somaska; deaths of Charles Young and Thomas Bray, at city of Buffalo; injury to John J. Fitzgerald, at Yonkers; death of John Lynch, at Geddes; injury to Charles O'Neill; death of Mary Mooney; death of Jarvis Kimball; death of Mrs. Burke; injury to Robert Dawson and injury to S. S. Parker.....	185-188
Inspection of.....	221
New Jersey and New York railroad, inspection of.....	230
New York, Lake Erie and Western railroad, accident on.....	154
For approval of Board of interlocking switch and signal apparatus.....	152
Inquiries as to cause of collision near Otisville, derailment of freight train at Dyke's switch, derailment of train near Howell's station, also derailment at Dayton's Hill, and also at Cooper's gravel pit.....	188, 189
Inspection of.....	232
New York, New Haven and Hartford railroad, inquiries as to cause of injury to E. B. Blaymaker, by overhead bridge at Port Chester, and death of Charles Reed, a little west of Larchmont.....	189, 190
Inspection of.....	240
New York and Sea Beach railroad, inspection of.....	241, 253
Northern Central railroad, inquiries as to cause of derailment near Canandaigua, collision at Stanley, death of William L. Barton at Millport, and injury to Charles W. Jarvis at Horseheads.....	190, 191

## O.

O'Neill, Charles, injured.....	187
O'Neill, Maggie, killed.....	191

## P.

Pace, George W., injured.....	192
Parker, S. S., injured.....	188
Pennsylvania, Poughkeepsie and Boston railroad, inspection of.....	242
Potter, W. S., injured.....	192
Port Jervis, Monticello and New York railroad, inspection of.....	242
Prospect Park and Coney Island railroad, inspection of.....	243

## R.

### Railroad Commissioners, Board of:

Report of.....	vii-xxi
General situation.....	vii
Summary of business for the year.....	x
References and complaints.....	xi
Accidents.....	xi
Change of motive power for street railroads.....	xv
Applications for increase of capital stock.....	xvi
Physical condition of railroads.....	xvii
Legislation.....	xviii

### Acts referred to the Board by the Governor for consideration:

An act to regulate rates of fare for passenger traffic on the railroad of the Ticonderoga Railroad Company.....	3
---	---

	PAGE.
Bills referred to the Board by the Governor for consideration—(Contin'd.)	
An act to authorize the Seneca Electric railway to operate any portion of its railroad by electricity, instead of locomotive steam power.....	4
An act granting additional powers to the Rome, Watertown and Ogdensburg Railroad Company.....	5
An act fixing the rate of fare to be charged by the Kinderhook and Hudson River Railroad Company.....	6
An act for the relief of the Brooklyn City Railroad Company as lessee of the franchises and property of the Bushwick Railroad Company.....	7
An act to amend chapter 345, Laws of 1888, entitled "An act to provide for the relief of the city of Buffalo, and to change and regulate the crossing and occupation of the streets and avenues and public grounds in said city by railroads".....	8
An act to amend section 635 of the Penal Code.....	10
An act to amend chapter 140 of the Laws of 1880, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," and to amend chapter 23 of the Laws of 1883, entitled "An act to regulate the construction of roads and streets across railroad tracks,"	13
An act to amend chapter 549, Laws of 1883, entitled "An act relating to the corporate rights and powers of street surface railroad companies".....	12
An act to amend section 4, chapter 252, Laws of 1884, entitled "An act to provide for the construction, extension, maintenance and operation of street surface railroads and branches thereof in cities, towns and villages".....	14
An act relative to consents to street surface railroad companies.....	15
An act for the relief of the People's Railroad Company of Syracuse.....	16
An act relative to percentages to be paid by street surface railroad companies.....	17
An act to amend section 56 of the Code of Criminal Procedure.....	18
An act further to extend the time within which the East Side and Mount Vernon Railway Company shall complete the several portions or sections of its railway.....	18
An act to amend section 426 of the Penal Code.....	19
An act to allow domestic electric-light and power corporations to build, maintain and operate by electricity as a motive power railroads other than street surface railroads not exceeding twenty miles in length.....	20
An act supplemental to chapter 808, Laws of 1875, entitled "An act further to provide for the construction and operation of a steam railway or railways in the counties of this State, and providing for the correction and amendment of articles of incorporation, etc.".....	21
An act to authorize the department public parks in the city of New York to grant to the New York and Hudson River Railroad Company a revocable license to use a strip of land on the western side of Bronx park in the Twenty ward, for a passenger sta-	22

	PAGE.
Bills referred to the Board by the Governor for consideration—(Contin'd).	
An act to repeal chapter 608, Laws of 1887, entitled "An act to extend the charter of the Delhi and Hudson Railroad Company".....	26
An act to amend chapter 189, Laws of 1888, entitled "An act to amend chapter 616, Laws of 1887, entitled 'An act to regulate the heating of steam passenger cars, and to provide for the placing of guards and guard-posts on railroad bridges and trestles and approaches thereto'.....	26
An act in relation to railroads, constituting chapter 39 of the General Laws.....	26
Comments of Board on same.....	27-49
Act creating.....	352-357
Expenses of.....	279
Minutes of.....	254-279

**Railroads:**

Accidents.....	153-161
Accident inquiries.....	182-193
Applications for change of motive power.....	106-126
Application for increase of capital stock.....	127-139
Application for issue of bonds.....	140, 141
Applications to suspend operation of road.....	142-150
Applications, various.....	151, 152
Companies formed, alphabetical list of.....	237-297
Complaints against.....	50-104
Consolidations of.....	282
Enactments.....	285, 286
Extension of corporate existence.....	282
Extension of routes of.....	282
Inspections of.....	188, 253
Laws relating to.....	321-497
Leased.....	281
Length of, in State.....	194-197
New companies formed.....	280
Reorganization of.....	281
Surrender of capital stock of.....	233

**ACCIDENTS ON:**

Lake Shore and Michigan Southern railroad.....	162
Lehigh Valley.....	167
New York and Canada.....	171, 178, 176
New York Central and Hudson River.....	172, 180
New York, Lake Erie and Western.....	164
Third Avenue Cable.....	153
Western New York and Pennsylvania.....	160, 164
West Shore.....	174

**APPLICATIONS FOR CHANGE OF MOTIVE POWER ON:**

Amsterdam Street Railroad Company, for the approval of the Board of a change of motive power from horses to electricity.....	116
Broadway and Seventh Avenue Railroad Company, for the approval of the Board of a change of motive power from horses to cable, in accordance with chapter 531 of the Laws of 1889.....	122
Buffalo Street Railroad Company on behalf of itself and of The Buffalo and Side Street Railroad Company, for the approval of the Board of a change in motive power from horses to electricity, upon that portion of Forest avenue between Delaware avenue and Niagara street.....	106

**Railroads—(Continued).**

Buffalo Street Railroad Company, for the approval of the Board of a change in motive power from horses to electricity on that portion of Niagara street in the city of Buffalo between Main street and Hertel avenue.....	170
Coney Island and Brooklyn Railroad Company, for the approval of the Board of a change of motive power from horses to electricity upon that portion of Sea Breeze avenue from East Fifth street to West Fifth street.....	117
Maple Avenue Railroad Company by its lessee, the Elmira and Horseheads Railroad Company, for the approval of the Board of a change of motive power from horses to electricity on that portion of its road lying between a point on Lake street, 300 feet north of the north line of Water street, and the southerly terminus of the Maple Avenue railroad upon Miller street, in the city of Elmira.....	120
Rochester Railway Company, for the approval of the Board of a change in motive power from horses to electricity.....	107
Third Avenue Railroad Company, of New York, for the approval of the Board of the cross section and construction of the rail to be laid upon its railroad when the change is made from horses to cable as a motive power.....	121
Troy and Lansingburgh Railroad Company, for the approval of the Board of a change in motive power from horses to electricity on the line of its railroad in the city of Troy, from the northern boundary line of said city to the southern terminus of said railroad.....	115
Utica and Mohawk Railroad Company, for the approval of the Board of a change of motive power from horses to electricity.....	109
Railroads consolidated.....	282
Railroad companies formed during year.....	280
Railroad company, reorganization of.....	281
RAILROAD LAWS.....	321-497
Railroads leased.....	281
Railroad routes, extension of.....	282
APPLICATION TO SUSPEND OPERATION OF, BY THE FOLLOWING COMPANIES, VIZ.:	
Catskill Mountain.....	148
Kaaterskill.....	147
Oneida Street.....	150
Riker Avenue and Sanford's Point.....	149
Rochester and Glen Haven.....	147
Rochester and Lake Ontario.....	142
Seneca Falls and Cayuga Lake.....	146-150
COMPLAINTS AGAINST:	
Albion, Board of Trade of.....	91
Armstrong, J.....	86
Banks, Robert Lenox.....	101
Bath Junction, residents of.....	58
Beekmantown and Chazy, residents of towns of.....	83
Bills, W. J. & G.....	56
Board of Trade of Albion.....	91
Brown, W. J.....	57
Burns, William Savage.....	57
Cazenovia, citizens of.....	75
Cook, Homer.....	59
Cross, T. E.....	55

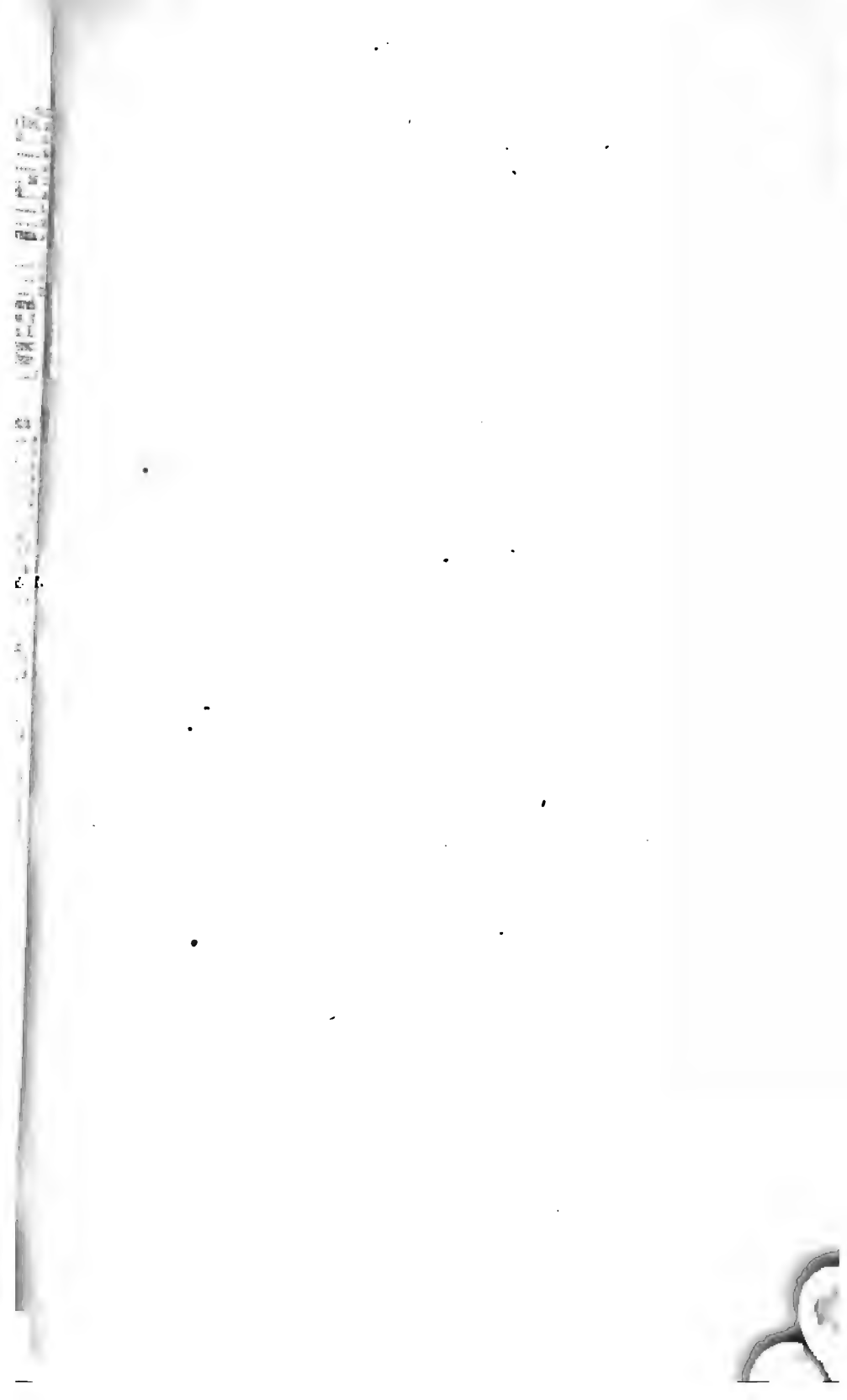


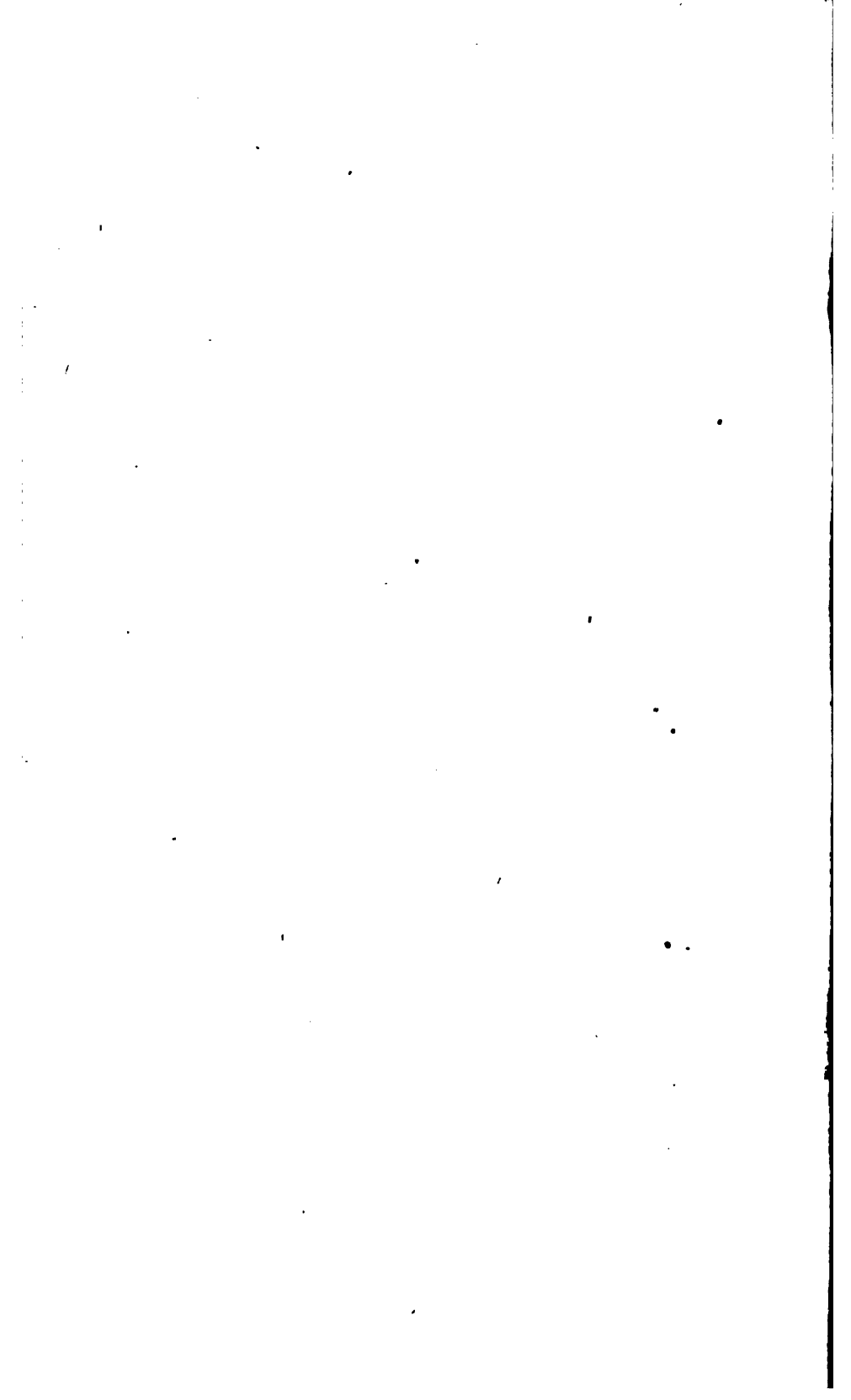
**Railroads — (Continued).**

	PAGE.
Cummings, Almon.....	79
Dalton, residents of.....	100
Ellicottville, town board of.....	84
Employees of the New York, Lake Erie and Western Railroad Com- pany.....	52
Fitzgerald, Thomas.....	98
Fordham & Son, H.....	66
Goldsmith and Tuthill.....	52
Great Valley, residents of.....	86
Hall, S. W.....	51
Hamilton, residents of.....	85
Hartshorne, C. H.....	85
Holland, residents of town of.....	80
Larmon, C. W.....	61
Look, George H.....	87
Membership, G. O.....	86
Northrup, G. O.....	76
Norwich, residents of village of.....	50
Ontario, residents of town of.....	51
Packer, J. L.....	60
Painted Post, residents of.....	93a
Phillipstown, highway commission- ers of town of.....	55
Rae, James M.....	67
Rice, Mrs. E. de Roode.....	60
Rochester, citizens of.....	79
Rodenhurst, De Witt C.....	76
Schuyler and Frankfort, residents of towns of.....	103
Sperry, Howard A.....	74
Stebbins and Utter.....	54
Stowell and Corbin.....	99
Titus, Wells and Willets.....	50
Van Duzer, J. S.....	97
Vrooman and Wood.....	61
Westchester county, residents of.....	90
Wilbur, R. S.....	101
Wilbur, W. R.....	59
CORPORATE EXISTENCE OF RAILROADS, EXTENSION OF.....	284
INSPECTIONS OF:	
Addison and Pennsylvania.....	198, 253
Bath and Hammondsport.....	199
Boston and Albany.....	192
Bradford, Eldred and Cuba.....	200, 253
Brooklyn, Bath and West End.....	201
Brooklyn and Brighton Beach.....	202
Buffalo, Rochester and Pittsburgh.....	202
Clove branch.....	204
Delaware and Hudson Canal Com- pany.....	206
Dunkirk, Allegheny Valley and Pitts- burgh.....	212
Herkimer, Newport and Poland.....	213
Long Island.....	214
Newburgh, Dutchess and Connecti- cut.....	219, 253
New Jersey and New York.....	220
New York Central and Hudson River.....	221
New York, Lake Erie and Western.....	232
New York, New Haven and Hartford.....	240
New York and Sea Beach.....	241, 253
Pennsylvania, Po'keepsie and Boston.....	242

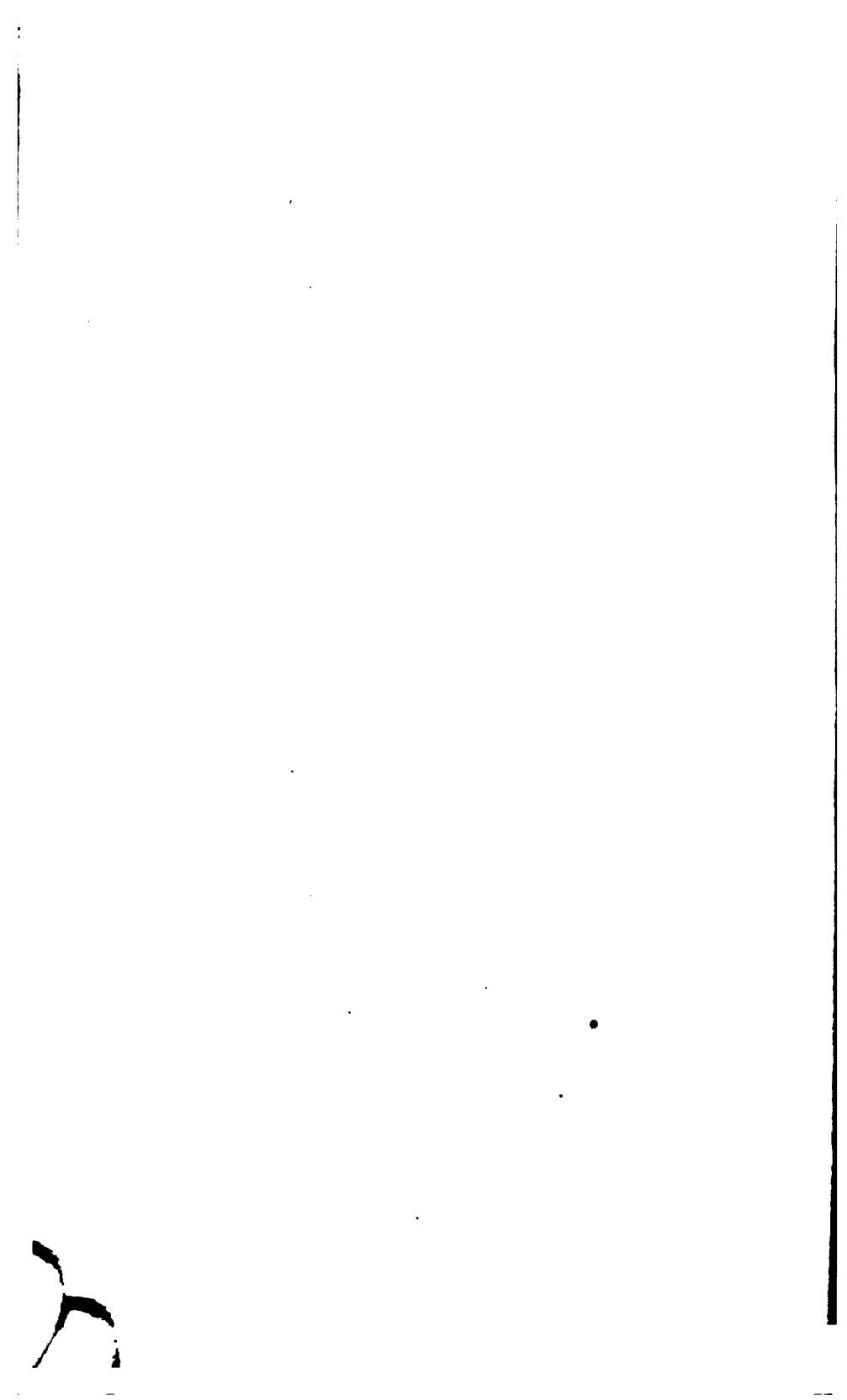
**Railroads — (Continued).**

	PAGE.
Port Jervis, Monticello and New York.....	242
Prospect Park and Coney Island.....	243
Sea View Elevated.....	244
Silver Lake.....	244
Staten Island Rapid Transf.....	245, 253
Syracuse, Ontario and New York.....	246
Ulster and Delaware.....	247
Wallkill Valley.....	248
Western New York and Pennsylvania.....	249
Reed, Charles, killed.....	190
Robinson, Nellie, injured.....	191
Rogers, Everett, injured.....	191
Rome, Watertown and Ogdensburgh railroad, inquiries as to cause of deaths of Maggie O'Neill, John E. Coe and J. A. Hill; injury to Everett Rogers, Nellie Robinson and Peter Crahan.....	191
<b>S.</b>	
Sea View Elevated Railroad, inspection of.....	244
Shepherd, Herbert M., killed.....	190
Silver Lake Railroad, inspection of.....	244
Slaymaker, E. B., injured.....	189
Sloat, S., killed.....	188
Smith, George T., injured.....	192
Somaska, M., injured.....	185
Staten Island Rapid Transit Railroad, inspection of.....	245, 253
<b>Surrender of capital stock.....</b>	<b>283</b>
Syracuse, Ontario and New York Rail- road, inspection of.....	246
<b>T.</b>	
Third Avenue Cable Railroad, accident on.....	153
Torrey, Harvey A., injured.....	190
<b>U.</b>	
Ulster and Delaware railroad, inspec- tion of.....	247
<b>W.</b>	
Wallkill Valley Railroad, inspection of.....	248
Western New York and Pennsylvania railroad, accident on.....	160, 164
inspection of.....	249
West Shore railroad, accident on.....	174
Inquiries as to cause of injuries to the following persons, viz.: William L'Estrange, Oscar M. Gray, W. C. Mansfield, George T. Smith, John McCarthy, Patrick T. Grace, Charles Hogan, George W. Pace, Charles S. Wilson, Mrs. Kline and W. S. Potter.....	192
Wilson, Charles S., injured.....	192
Wright, Charles L., injured.....	189
<b>Y.</b>	
Young, Charles, killed.....	186









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1889/90.

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